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SC SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Aiken County

R. Knox McMahon, Circuit Court Judge

JOSHUA FORREST,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001045

SUPPLEMENTAL APPENDIX

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
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SHEET WHICH IS A PAPER EXHIBIT THAT IS ILLEGIBLE)**

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT
2006-GS-02-694 & 695

2 COUNTY OF AIKEN

3
4 STATE OF SOUTH CAROLINA,

5 -vs-

TRANSCRIPT OF RECORD

6 JOSHUA LAMAR FORREST,
Defendant

7
8
9 Heard on December 4, 5 and 6th, 2006
Aiken, South Carolina

10
11 BEFORE:

12 THE HONORABLE DOYET A. EARLY, III
13 AND A JURY

14 APPEARANCES.

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16
17 Counsel on Behalf of the Defendant
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18
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20
21
22 Cheri L. Young, RPR
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24 Aiken, SC 29802-1154
25

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CAIN - DIRECT

1 ON MONDAY, DECEMBER 4, 2006.

2 THE COURT. All right Call the case.

3 MR. GIBBONS. This is State versus Joshua Lamar
4 Forrest. We're here for purposes of a Jackson versus
5 Denno hearing.

6 THE COURT. All right Is the State ready to
7 proceed?

8 MR GIBBONS We are, Your Honor.

9 THE COURT. Defense ready to proceed, ma'am?

10 MS. STONEY Yes, Your Honor

11 THE COURT. Call your first witness

12 MR. GIBBONS Your Honor, the State calls
13 Investigator Chuck Cain to the stand.

14 CHARLES CAIN, having been duly sworn, was
15 examined and testified as follows.

16 THE CLERK: Have a seat in the witness box
17 State your full name for the Court, spelling your last

18 THE WITNESS. Charles Cain C A I N.

19 DIRECT EXAMINATION

20 BY MR. GIBBONS

21 Q Investigator Cain, were you the investigating officer
22 in the charges that's currently pending against Joshua
23 Forrest?

24 A I am.

25 Q. And did you have occasion to be present when he was

CAIN - DIRECT

1 taken into custody?

2 A I was

3 Q. Could you tell us how that happened?

4 A The custodial arrest?

5 Q. We're interested in the time he was taken into custody
6 up until the time he gave his statement. If you could
7 just tell us your involvement at that period of time.

8 A Prior to his arrest, I contacted his mother. She
9 stated that she would attempt to locate him and page me
10 when she located him She did She located him She
11 paged me Had her meet me at Ascauga Lake and Highway 25
12 in North Augusta

13 At the time I arrived I took Mr. Forrest into custody
14 without incident We drove back to the Aiken County
15 Sheriff's Office and went into the interview room and
16 that's when I read Miranda to him.

17 Q Had he been questioned at all during the ride from
18 North Augusta to Aiken?

19 A It was just him and I were in the car I did not
20 question him at all.

21 Q He was in custody at this time?

22 A Yes, he was

23 Q Had he been charged formally?

24 A. Not formally, no

25 Q. Were there arrest warrants?

CAIN - DIRECT

1 A. There were outstanding arrest warrants on him

2 Q. Was he free to leave at that time?

3 A. In my vehicle, no, he was not

4 Q I show you what has been marked as Court's Exhibit
5 Number One in this case and ask if you can identify what
6 that sheet of paper is?

7 A. That's the Aiken County Sheriff's Office Miranda
8 warning

9 Q That is the actually original sheet?

10 A. Yes, it is.

11 Q Has it been changed or altered in any way?

12 A Not to my knowledge, no Looks exactly the same way
13 as it was when I signed it

14 Q. And the writing on that sheet, who's writing is that?

15 A The dates and times, my signature, all of that is my
16 writing and the initials and the Defendant's signature is
17 on this form.

18 Q. And what is that form used for?

19 A The Miranda warning is provided to suspects under
20 custody prior to any questioning about the incident
21 they're directly involved in.

22 Q And did you allow him to read that? Did you read it
23 him to? What was your method?

24 A. The manner I did was I set it, I positioned it where
25 he could read it along as I verbally read it to him And

CAIN - DIRECT

1 that way he could clearly understand exactly what each
2 element of the Miranda meant without my interpretation I
3 just wanted him to make sure that he had a clear
4 understanding of it

5 Q. So you read it aloud to him?

6 A Yes, I did.

7 Q Could you read into the record exactly what you read
8 to him that day?

9 A. Before we ask you any questions you must understand
10 your rights You have the right to remain silent.
11 Anything you say can and will be used against you in a
12 court of law You have a right to talk to an attorney for
13 advice before we ask you any questions and to have him
14 present during questioning

15 If you cannot afford an attorney the Court will
16 appoint an attorney to represent you without cost if you
17 wish If you decide to answer questions now without an
18 attorney present you will still have the right to stop
19 answering at any time. You also have the right to stop
20 answering at any time until you talk to an attorney

21 I have read the statement of my rights and I
22 understand what my rights are.

23 The waiver of the rights indicates, I am willing to
24 make a statement and answer questions I do not want an
25 attorney at this time. I understand and know what I am

CAIN - DIRECT

1 doing. No promises or threats have been made to me and no
2 pressure or coercion of any kind has been used against me

3 Q. Was the signature affixed to that paper at that time?

4 A. The Defendant's and my own.

5 Q. Was there anyone else in the room when this was going
6 on?

7 A Investigator Kevin Liles was there

8 Q. Did he witness these statements?

9 A. Yes, he was there He did not sign as a witness. I
10 did that, but he was in the room at the time.

11 Q. He was there when you read the paper?

12 A. Yes, sir.

13 Q At any time during your contact with Mr. Forrest up
14 until this point, had you had any problems communicating
15 with him?

16 A With Mr. Forrest?

17 Q Yes, sir.

18 A No, I had not

19 Q Did he appear to understand what you were saying to
20 him?

21 A Yes, he did.

22 Q Did he have any questions or make any remarks while
23 you were affording him his rights?

24 A. Not that I recall I'm sure there was a conversation
25 between us but if he would have any questions, if he would

CAIN - DIRECT

1 have had any doubts about Miranda, I would not have
2 proceeded with the questioning.

3 Q Now, he signed those waivers of his own free will?

4 A. Yes, he did

5 Q. Were there any offers of leniency given to him?

6 A. No, no offers at all

7 Q. Any threats?

8 A No

9 Q. Any coercion of any type?

10 A. None

11 Q Was he denied food, water, bathroom breaks or anything
12 like that?

13 A Absolutely not.

14 Q What period of time did it take you from the time you
15 picked him up until the time you signed that paper?
16 Just approximate is fine.

17 A Well, I have that documented here. At 16:15 hours I
18 arrived to Ascauga Lake at Highway 25 And I took
19 Mr. Forrest into custody And at 16:45 hours was when we
20 began the interview process, somewhere around there

21 Q At any point in time, did he ask for an attorney?

22 A. No, he did not. Not that I'm aware of

23 Q. At any point in time, did he tell you that he did not
24 want to answer any more questions?

25 A. No

CAIN - DIRECT

1 Q Did he make any requests along those lines at all
2 during the course of your interview with him?

3 A. To have an attorney present?

4 Q. An attorney, his mama, a friend?

5 A. The only -- not to have anyone present The only
6 thing that he requested of me was that he would
7 voluntarily do a recorded interview but he did not -- he
8 did not want to go and do a written one. That was his
9 only request

10 Q. All right. You were in, I think you said, the
11 interrogation room?

12 A. Interview room.

13 Q Is that room set up with a recording device?

14 A. Yes, it is.

15 Q. Was he aware of that?

16 A Yes, he was.

17 Q Is it hidden? Is it visible?

18 A The camera there is for everyone to see The camera
19 that does the actual recording is placed in the upper
20 right corner of the room. And he was informed that it is
21 being recorded audio and video.

22 Q. And did in fact a recorded -- was a recording made
23 that day?

24 A Yes, there was.

25 Q. Is it a complete recording from start to finish?

CAIN - DIRECT

1 A. No, it is incomplete

2 Q. What part is on the tape or on the CD?

3 A. The initial part is when I am offering his Miranda,
4 that is recorded audio and video. After Miranda is done,
5 the tape automatically jumps to where I am serving,
6 actually serving the warrants to him

7 Q Is that what was supposed to happen?

8 A No, the whole entire interview should have been
9 recorded

10 Q. And there is no copy anywhere of that?

11 A. Not to my knowledge

12 Q. During the time you were interviewing Mr. Forrest,
13 were you taking any notes or making any kind of notes
14 personally about the interview?

15 A Normally I do take, I didn't take handwritten notes,
16 just stuff to refer back to as we're interviewing. And I
17 transcribe those, my final report and in the field note
18 and the contact sheets.

19 Q. So, you do have a written record of what was said by
20 Mr. Forrest that day?

21 A. Yes, I do.

22 Q. And how long after this interview took place did you
23 put that into writing?

24 A. If it would have been that afternoon, the actual
25 handwritten notes were done at that time, and the typed

CAIN - DIRECT

1 formal investigative report would have been done the
2 following morning.

3 Q So within a day, day and a half?

4 A. Within a half day, within a half day

5 Q. And what exactly did he tell you from your notes?

6 A. Mr Forrest reported of Chantille Epps driving him to
7 the Elks Club and arriving and entering between 01 30 and
8 0200 hours on 12-4-05 and consuming a large quantity of
9 alcohol that intoxicated him.

10 Mr Forrest reported while inside Bussey, his former
11 girlfriend, who had formed a relationship with Mario
12 Reddish during Mr. Forrest's recent incarceration began a
13 verbal argument over his flirtations with a woman known as
14 Monique.

15 Mr. Forrest continued to report that Bussey took his
16 ball cap and relocated within a group of 12 males towards
17 the rear of the Elks Club Mr Forrest reported he
18 approached her to retrieve his cap whereas Bussey threw a
19 drink on him and slapped his face several times
20 Mr Forrest reported he ignored Bussey's assault and after
21 obtaining his cap, the 12 males began to shove him and he
22 left the interior of the Elks Club, relocating to the rear
23 driver door -- driver's side door of a white color Lincoln
24 operated by James Forrest.

25 Mr. Forrest reported that he opened the door to enter,

CAIN - DIRECT

1 wasn't able due to the driver's seat being fully declined
2 (sic) and upon relocating to the front of the vehicle
3 observed Bussey and the same group of males approaching
4 him Mr Forrest reported Bussey hit his face several
5 times and he grabbed her throat and pushed her away.
6 Mr Forrest reported Reddish then approached him and
7 punched him in the face and a physical fight erupted
8 whereas Reddish again struck him in the jaw as the flight
9 relocated to the front region of the Lincoln.

10 Forrest displayed apparent visible injury to his inner
11 lip region at that time Forrest reported and
12 demonstrated during the fight that Reddish secured him in
13 a frontal bear hug, gripping both of his, Reddish's, arms
14 around his, Mr. Forrest's, arms and torso. Forrest
15 reported upon trying to break free he heard apparent
16 gunshots and began to back away from Reddish who ripped
17 his, Forrest's, shirt off while falling forward to the
18 ground

19 Forrest reported of running to and entering the
20 Lincoln with James Forrest and Joseph Gartrell while
21 hearing Bussey state, shoot that N. Forrest reported
22 while fleeing the incident location an unknown black male
23 ran along side the Lincoln firing a pistol.

24 Forrest reported as soon as arriving at the Waffle
25 House on Highway 19 and I-20 Aiken, South Carolina where

CAIN - DIRECT

1 he accepted a ride from a Myron to his, Forrest's,
2 girlfriend, Marcy Coleman, residence located in Apple
3 Valley Subdivision in Augusta, Georgia, arriving between
4 0500 and 0600 hours on 12-4-05,

5 Finally Forrest reported overhearing Coleman's mother
6 state at 08:30 hours that he was wanted by the police and
7 in speaking with his mother later that day who coordinated
8 his surrender to law enforcement.

9 Q Was that the gist of his statement to you that day?

10 A. That's pretty much it What he stated to me was that
11 he was in a bear hug by Reddish. Reddish had him in a
12 bear hug, that shots went off. When he backed away he
13 realized that Reddish had been shot and was falling
14 forward.

15 And I questioned -- I questioned Mr Forrest that if
16 -- how could Mr Reddish have been shot in the front part
17 of his body if he's in a frontal bear hug with Joshua
18 Forrest, if he is in a frontal bear hug and Mr. Forrest
19 not be shot And he stated to me that it's God's will.

20 Q. That's all he said?

21 A And I asked him, does he mean divine intervention.
22 And he said, yes And that was pretty much it.

23 Q And that was the conversation you had with him that
24 day?

25 A That's correct

CAIN - CROSS

1 Q And up until that point, did he ever become involved,
2 said he didn't want to talk any more?

3 A. At no time. He was cooperative the whole time

4 Q. Again, did he ever ask for an attorney to be present?

5 A Not that I can recall.

6 Q. Is that pretty much the end of your contact with him
7 regarding this statement?

8 A It did. I did not interview him after I served the
9 warrants.

10 MR GIBBONS Thank you. Your Honor, that's -- I
11 believe that's all we have for this witness

12 THE COURT Ms. Stoney?

13 CROSS-EXAMINATION

14 BY MS. STONEY

15 Q. You stated that my client said that he was in a bear
16 hug with Mario Reddish and he heard gunshots ring out?

17 A That's correct

18 Q Did he actually ever state to you that he realized at
19 that time that Mario had been shot?

20 A. I was left with the impression when I asked him how
21 could Mario Reddish have been shot in the frontal region
22 and you, Mr. Forrest, not be shot And at that time
23 that's when he told me about he didn't know how that could
24 have happened but it did

25 So I was left with the impression that he did realize

CAIN - CROSS

1 that Mario Reddish had been shot

2 Q. But he never actually stated to you at that time that
3 he let go of Mario or Mario let go of him, that he
4 realized that Mario had been shot?

5 A I do not have that in my notes

6 MS. STONEY: No more questions, Your Honor.

7 THE COURT. Redirect?

8 MR. GIBBONS. None

9 THE COURT You may step down. Next witness,
10 please

11 MR. GIBBONS: The State would call Kevin Liles to
12 the stand. Your Honor, we would move the Miranda form
13 into evidence for ID.

14 THE COURT. Any objection?

15 MS STONEY. No, Your Honor

16 THE COURT. How many people do I got in the
17 audience that's involved in this case? Raise your hand,
18 please, anybody involved in this case.

19 MR GIBBONS: I think we told them to come at
20 two, Your Honor

21 THE COURT Thank you.

22 KEVIN LARRY LILES, having been duly sworn, was
23 examined and testified as follows.

24 THE CLERK Have a seat in the witness box
25 State your full name for the Court, spelling your last

LILES - DIRECT

1 THE WITNESS My name is Investigator Kevin Larry
2 Liles The last name is L. I. L. E S.

3 DIRECT EXAMINATION

4 BY MR GIBBONS

5 Q. Investigator Liles, were you also involved in the
6 arrest of Mr Forrest?

7 A. I was not involved in the actual arrest but I was in
8 the interview room when that was being conducted

9 Q. And were you present when his rights form was filled
10 out?

11 A. Yes, sir. I was

12 Q. And did you hear each one of those rights read to him
13 aloud?

14 A. Yes, sir.

15 Q. And did you witness him during that period of time?

16 A. Yes, sir.

17 Q. Did he appear to understand what was being said in
18 your opinion?

19 A. Yes, sir. He did.

20 Q. And did he at any time ask for a lawyer?

21 A. No, sir.

22 Q. Did he at any time refuse to answer questions?

23 A. No, sir.

24 Q. Were you present and witness any threats made?

25 A. None.

LILES - DIRECT

1 Q Any coercion?

2 A. No, sir.

3 Q. Any offers of leniency if he did cooperate?

4 A. No

5 Q. And did you stay in the room the whole time the
6 statement was, we thought was being recorded?

7 A Yes, sir

8 Q And do you know what happened to the recording
9 machine?

10 A Not specifically, but speculation I could tell you --

11 THE COURT Don't speculate, please.

12 BY MR GIBBONS.

13 Q Do you know what the problem was, though?

14 A. Yes, sir

15 Q. And are you aware that parts of it did tape and parts
16 didn't?

17 A Yes, sir.

18 Q. Have you reviewed those parts?

19 A. Yes, sir. I have

20 Q. And at any time during the interview of Mr Forrest
21 did you hear him fail to be cooperative or express a
22 desire not to continue the interview?

23 A. No, sir.

24 Q At any time did you hear him ask for an attorney?

25 A. No, sir I did not.

LILES - CROSS

1 Q It's your understanding that he appeared to be giving
2 the statement of his own free will?

3 A. Yes, sir.

4 MR. GIBBONS: Thank you Answer any questions of
5 defense, please

6 THE COURT: Cross, please

7 CROSS-EXAMINATION

8 BY MS STONEY:

9 Q. Investigator Liles, where were you in the room?

10 A. I was sitting in the corner, just under the camera.

11 Q. So you were not on the tape?

12 A Initially you can see me sitting down under the
13 camera, just below the camera

14 MS STONEY: Okay. No more questions

15 THE COURT: Redirect, if any?

16 MR. GIBBONS: Your Honor, that would be the
17 State's proof on this matter.

18 THE COURT You may step down, Officer Any
19 argument on behalf of the Defendant?

20 MS STONEY. No, Your Honor.

21 THE COURT. Okay. Obviously at this point of the
22 game, under the auspices or mandates of Jackson V Denno I
23 have to conduct a hearing to determine whether or not the
24 State by the preponderance of the evidence has shown that
25 the statement was voluntary and taken in compliance with

1 Miranda. I find that they have met that burden of proof;
2 and I will allow it into the trial of the case.

3 Obviously the jury then must decide whether or
4 not it's been proven voluntarily beyond a reasonable doubt
5 and the Miranda has been complied with beyond a reasonable
6 doubt. They can give it whatever weight if any they deem
7 it necessary.

8 Anything else, ladies and gentlemen, for the
9 record?

10 MR GIBBONS: I don't think so, Your Honor.

11 MS STONEY: No, Your Honor.

12 THE COURT: As I understand the jury comes at two
13 o'clock. It reports at two, probably be coming in here
14 about 2 15. We'll draw the jury and then get started with
15 the trial of the case.

16 MR GIBBONS: Thank you, Your Honor.

17 MS STONEY. Thank you.

18 THE COURT Ms. Stoney, do you have any clothes
19 for him to wear?

20 MS. STONEY: Your Honor, his mother was supposed
21 to bring some clothes up here.

22 THE COURT Well, I don't want that to be a
23 holdup at two o'clock.

24 MS STONEY Yes, sir.

25 THE COURT Make sure we got it. We got clothes

SELECTION OF THE JURY

1 back there he can wear. All right. Step back, then

2 (Thereupon other matters were heard by the Court

3 The jury was qualified by the Court and the following

4 ensued:)

5 THE COURT. Ladies and gentlemen of the jury

6 panel, the next event on the schedule is we're going to

7 draw the first jury That process will probably take us

8 anywhere from 15 minutes to 30 minutes. Does anybody need

9 a break before we start that? Bathroom break or

10 whatever?

11 In just a few minutes I'm going to ask another

12 series of questions that deal specifically with the first

13 case for trial And if any of these questions apply to

14 you, I would ask that you please stand Once again, give

15 us your name and your jury number. And then I will ask

16 the questions and you can respond to those.

17 Once we complete that, and that won't take real

18 long, we will then draw the jury. The way we do it in

19 general sessions or criminal court is that the clerks will

20 pull from a box up here the names, randomly, and when your

21 name is called if you would please come down right here to

22 the front, turn around and face the lawyers

23 In this case the defense has ten strikes, and the

24 State has five What that means is that they can say,

25 judge, excuse that juror or strike that juror. And they

SELECTION OF THE JURY

1 can basically do it for any reason or no reason at all
2 within certain rules. So don't get offended if you're
3 struck. Sometimes it's no rhyme or reason as to why a
4 lawyer will excuse or strike you

5 We will go through that process until we have 12
6 jurors and a number of two or three alternates and then
7 once we conclude that, I will be able to excuse the
8 balance of you for, the rest of you for the balance of the
9 day. And I will let you know whether you should call back
10 in tonight or tomorrow night. We'll talk about that
11 before we excuse you

12 So, please listen very carefully to these
13 questions. And if any of them apply to you, would you
14 please stand and respond to them.

15 I remind you that you're still under oath from
16 your earlier voir dire and earlier oath

17 The case is called for trial -- I need the
18 indictment. This case is called the State of South
19 Carolina versus Joshua Lamar Forrest. F. O R R E S.

20 T Mr Forrest, how are you today?

21 THE DEFENDANT: All right.

22 THE COURT. Would you please stand and face the
23 jury panel?

24 THE DEFENDANT: (Complying).

25 THE COURT. Thank you. You may be seated.

SELECTION OF THE JURY

1 Is there any member of the jury panel related by
2 blood or marriage to the Defendant, Joshua Lamar Forrest?
3 If so, please stand

4 (No response)

5 Any member of the jury panel ever, now or in the
6 past had a close personal or social relationship with
7 Joshua Lamar Forrest? If so, please stand

8 (No response.)

9 The alleged victim in this case is a person known
10 by the name of Mario Terrell Reddish R E. D D. I S.
11 H. Has any member of the jury panel ever been related by
12 blood or marriage or have you ever had a close personal or
13 social relationship with Mario Terrell Reddish? If so,
14 please stand

15 (No response)

16 I'm now going to read out a list of witnesses who
17 are potential witnesses in the trial of the case. Please
18 listen to each one as I read it out because I will ask
19 that same question at the conclusion, have you been
20 related by blood or marriage or have you ever had a close
21 personal or social relationship So listen carefully to
22 the witness list, please

23 John Downs with the Aiken County Sheriff's
24 Office If any of these witnesses are in the courtroom,
25 please stand. Kevin Liles with the Aiken County Sheriff's

SELECTION OF THE JURY

1 Office. Just look at them as we're going to go through
2 the questions Chuck Cain with the Aiken County Sheriff's
3 Office Thank you, Officer

4 We'll ask the questions in just a moment and
5 we'll go through them Clay Adams with the Aiken County
6 Sheriff's Office Billy Fleury, F. L. E. U. R Y Aiken
7 County Sheriff's Office. Donna Sawyer, Aiken County
8 Sheriff's Office. Marie Frances O'Grady Watts, Aiken
9 County Sheriff's Office Jessica Davis with the second
10 solicitor's office.

11 MR GIBBONS: Adams, Your Honor

12 THE COURT Adams I apologize Thank you,
13 ma'am Laurie Shacker. S. H A C. K E R. with SLED.
14 John G D. Roberts with SLED. Dr. Janice E. Ross, M.D.
15 Thank you, ma'am. She's right over here. Thank you,
16 Dr. Ross

17 Chantille Epps, E P. P. S Wesley Lott
18 Clarence Preston Chris Roper Tamika Bussey Campbell.
19 Tanika, T. A N. I K. A Roberson James Forrest
20 Beverly Forrest. Joseph Gartrell, G. A R T R E. L.
21 L Marcy Coleman Jonathan Thomas. Latasha Brown,
22 Sherry Cade April Lightsey. Richard Blocker. Tiffany
23 Grimes. And Terrence Smith.

24 Any member of the jury panel ever been related by
25 blood or marriage to any of these potential witnesses or

SELECTION OF THE JURY

1 has anyone ever had a close personal or social
2 relationship with any of them? If so, please stand.

3 All right Please remain standing. My diesel
4 mechanic, your name?

5 THE JUROR: Timothy Stone, 131 I work with her

6 THE COURT Who are you?

7 THE JUROR: Timothy Stone

8 THE COURT: What's her name?

9 THE JUROR Beverly Forrest

10 THE COURT: You all work together now?

11 THE JUROR: I work for the City of Aiken and she
12 works for the City of Aiken

13 THE COURT Okay And the fact that you are in
14 the same employment or employed by the same entity as one
15 of the potential witnesses, would that in any way preclude
16 or keep you from being a fair and impartial juror in the
17 trial of this case?

18 THE JUROR: No, sir.

19 THE COURT Thank you. You may be seated

20 Now the funeral director. Your name, please?

21 THE JUROR: Raymond Visotski, 167. Your Honor,
22 I'm a part-time fire fighter with the City of Aiken. I'm
23 well acquainted with Investigator Liles and David Adams
24 One time Liles was a part-time employee with the funeral
25 home.

SELECTION OF THE JURY

1 THE COURT: The fact that are you a part-time
2 employee with some of the witnesses in this case, sir,
3 would that in any way preclude or keep you from being a
4 fair and impartial juror in the trial of this case?

5 THE JUROR No, sir.

6 THE COURT Thank you. You may be seated. The
7 gentleman who works for Morris Communications I assume
8 it's Mr Billy Morris?

9 THE JUROR. That's correct

10 THE COURT And your wife does also?

11 THE JUROR Yes, sir

12 THE COURT And your name, please?

13 THE JUROR: Dan Keaton, number 65. Chairman of
14 Aiken County Sheriff's Office posse for five years and as
15 such I met Mr Cain. I never had a close personal
16 relationship with him.

17 THE COURT. And that was something that you did
18 in the past, sir?

19 THE JUROR That's correct.

20 THE COURT The fact that you were at one time
21 associated with the Aiken County Sheriff's Office on a
22 volunteer basis, is that correct?

23 THE JUROR: That's correct

24 THE COURT: Would that in any way preclude or
25 keep you from being a fair and impartial juror in the

SELECTION OF THE JURY

1 trial of this case by reason of the fact that some of the
2 potential witnesses are employed by the Aiken County
3 Sheriff's Office?

4 THE JUROR: No, it would not

5 THE COURT Thank you so very much. You may be
6 seated.

7 Can't remember what you did. What do you do? I
8 remember. Cook pizza; right?

9 THE JUROR Yes, sir.

10 THE COURT Your name?

11 THE JUROR: Brandon Thompson I know Chris
12 Roper. I used to work with him at Ferrando's

13 THE COURT: Chris Roper?

14 THE JUROR Yes, sir

15 THE COURT: The fact that you had at one time or
16 still know Mr. Roper who may be a potential witness, sir,
17 would that in any way preclude or keep you from being a
18 fair and impartial juror in the trial of the case?

19 THE JUROR: No, sir.

20 MS. STONEY I'm sorry, Judge, what number was
21 he?

22 MR. GIBBONS: 137.

23 MS. STONEY: Thank you

24 THE COURT I try to remember everybody's
25 occupation Sometimes I can do it and sometimes I can't.

SELECTION OF THE JURY

1 Sometimes I embarrass myself.

2 Ladies and gentlemen, in this case the Defendant,
3 Mr Forrest's lawyer is Sherri Stoney. Ms. Stoney
4 practices law in Augusta And I assume lives in Augusta.
5 Is that correct?

6 MS. STONEY: Actually, yes.

7 THE COURT And practices law over here in South
8 Carolina from time to time On behalf the State we have
9 Mr. Grant Gibbons who's an assistant solicitor, Ms. Lauren
10 Maurice and Solicitor Barbara Morgan

11 Has any member of the jury panel now or in the
12 past been represented by any of the lawyers that I have
13 just named. Ms Stoney, do you practice with a firm?

14 MS. STONEY No, Your Honor I'm a sole
15 practitioner.

16 THE COURT: With any of these lawyers. If so,
17 please stand

18 (No response)

19 Any member of the jury panel has ever been
20 related by blood or marriage or do you now or in the past
21 have a close personal or social relationship with any of
22 the lawyers that I just named? If so, please stand

23 Yes, sir. My diesel mechanic. Again your name?

24 THE JUROR: Grant here. Timothy Stone, 131, I go
25 to church with him.

SELECTION OF THE JURY

1 THE COURT. All right. The fact that you attend
2 the same church as Mr Gibbons, would that in that any
3 way, sir, preclude or keep you from being a fair and
4 impartial juror in the trial of this case?

5 THE JUROR: No, sir.

6 THE COURT Thank you. You may be seated. Yes,
7 sir?

8 THE JUROR I know Lauren.

9 THE COURT Your name, please?

10 THE JUROR: Howard Jones I used to work for her
11 dad

12 THE COURT: What do you do for a living?

13 THE JUROR Electrician

14 THE COURT: The fact that you know Mrs. Maurice,
15 would that in any way preclude you from being a fair and
16 impartial juror in the trial of this case?

17 THE JUROR No

18 THE COURT Thank you You may be seated

19 Ladies and gentlemen, my next question is going
20 to be: Do you know anything about this case? Have you
21 read anything about it? Have you seen anything about it
22 on the TV? Heard anything about it on the radio or any
23 other source? I'll ask if you've formed any opinion about
24 the case or expressed any opinion about the case or any
25 issue involved with the case.

SELECTION OF THE JURY

1 I have to tell you a little bit about the case
2 but please bear in mind what I'm telling you are simply
3 allegations The Defendant has pled not guilty to these
4 indictments and that puts the burden of proof on the State
5 of South Carolina to prove each and every element of each
6 and every indictment beyond a reasonable doubt.

7 So when I tell you what the allegations are, that
8 is simply allegations It is not evidence. It is simply
9 what the case is about.

10 But it is alleged that here in Aiken County on
11 December 4, a year ago today, 2005, that the Defendant in
12 the case used a handgun and shot one Mario Reddish causing
13 his death He is indicted for murder

14 In addition to the indictment for murder, he's
15 also indicted for possession or allegedly possessing a
16 firearm during the commission of a violent crime, to wit,
17 murder.

18 Once again, I tell you those are simply
19 allegations That is not proof. It is simply the
20 allegations in the indictment which is the charging
21 document by which this case is brought into court. He has
22 pled not guilty And it is the burden on the State to
23 prove these allegations beyond a reasonable doubt.

24 But does anyone know anything about the facts in
25 the case? Formed any opinion about the case? Expressed

SELECTION OF THE JURY

1 any opinion about the case? Heard about it from any
2 source whatsoever? If, so, please stand

3 (No response)

4 Is any member of the jury panel aware of any bias
5 or prejudice towards either the State of South Carolina or
6 Defendant in this case? If so, please stand.

7 (No response)

8 Is there any member of the jury panel who is a
9 member of the Aiken County Grand Jury which returned a
10 true bill on April 13, 2006 as to both indictments? If
11 so, please stand.

12 (No response.)

13 Does any member of the jury panel know any reason
14 whatsoever why he or she should not serve as a juror in
15 this case with particular emphasis being placed on your
16 ability to be fair and impartial both to the State and to
17 the Defendant? If so, please stand

18 (No response.)

19 Are there any additional questions on behalf of
20 the State?

21 MR GIBBONS. No, sir

22 THE COURT. Are there any additional questions on
23 behalf of the Defendant?

24 MS. STONEY: No, Your Honor.

25 THE COURT. Thank you.

SELECTION OF THE JURY

1 Now, as I just said, the clerk is going to call
2 your name As your name is called, please come forward
3 right up here between the two lawyers and turn around and
4 face them

5 In Aiken we still do it very scientifically We
6 put your name on the little piece of paper and we stick it
7 down in a barrel and we draw it out. Hold on one second

8 (Sidebar Off-the-record discussion)

9 THE COURT Do you need a second?

10 MR. GIBBONS Yeah

11 THE COURT Okay

12 (Off-the-record discussion.)

13 THE COURT: Sir, do you know any of the potential
14 witnesses in the trial of the case?

15 THE JUROR: I know James Forrest

16 THE COURT Well, why didn't you stand up a while
17 ago? Look up here.

18 (Off-the-record discussion)

19 THE COURT: What juror number?

20 THE CLERK 122.

21 THE COURT: Liz, what numbers did you have?

22 THE CLERK 93 and 47.

23 (Pause)

24 THE COURT Okay As your name is called, would
25 you please come forward?

SELECTION OF THE JURY

1 THE CLERK Juror number 82, Harold McCarty.
2 (white male).

3 THE COURT Let me put something on the record
4 about Mr McCarty We had a sidebar with Mr McCarty. I
5 was going to put this on the record for both of you to
6 know this

7 Mr. McCarty informed me, number one, he is a
8 truck driver and this week was going to be tough for him
9 And, number two, he just got custody of a child who is
10 barely over seven years of age and the exemption didn't
11 apply to him. I did not excuse him So let, just for the
12 benefit of both lawyers that needs to be put on the
13 record.

14 THE CLERK. What says the State?

15 MR GIBBONS Please present Mr McCarty.

16 THE CLERK What says the defense?

17 MS STONEY: Please present Mr. McCarty

18 THE CLERK: You may have a seat in the jury box
19 to your Left

20 Juror number 146, David Widener (white male).

21 MR GIBBONS. What was the number again?

22 THE CLERK: 146. What says the State?

23 MR. GIBBONS: Please present Mr. Widener.

24 THE CLERK. What says the defense?

25 MS STONEY: Please excuse this juror.

SELECTION OF THE JURY

1 THE CLERK You may return to your seat.

2 Juror number 65, Dan Keaton (white male) What
3 says the State?

4 MR. GIBBONS Please present Mr. Keaton

5 THE CLERK What says the defense?

6 MS STONEY: Please excuse Mr. Keaton

7 THE CLERK: You may return to your seat

8 Juror number 88, Tricia Murray (black female).

9 What says the State?

10 MR. GIBBONS Please present Ms Murray.

11 THE CLERK What says the defense?

12 MS STONEY Please present Ms Murray

13 THE CLERK You may have a seat in the jury box
14 to your left.

15 Juror number 57, Lawrence Hoffman (white male).

16 What says the State?

17 MR GIBBONS Please present Mr Hoffman

18 THE CLERK: What says the defense?

19 MS. STONEY. Please present Mr Hoffman.

20 THE CLERK You may have a seat in the jury box
21 to your left

22 Juror number 166, Henry Thompson (white male).

23 What says the State?

24 MR. GIBBONS: Please present Mr. Thompson.

25 THE CLERK What says the defense?

SELECTION OF THE JURY

1 MS. STONEY Please excuse this juror.

2 THE CLERK You may return to your seat.

3 Juror number 132, Karl Sturgill (white male).

4 What says the State?

5 MR. GIBBONS Please present Mr Sturgill

6 THE CLERK What says the defense?

7 MS STONEY: Please present this juror.

8 THE CLERK. You may have a seat in the jury box
9 to your left.

10 Juror number 135, Jason Taylor (white male).

11 What says the State?

12 MR GIBBONS. Please present Mr. Taylor

13 THE CLERK: What says the defense?

14 MS. STONEY Please present this juror.

15 THE CLERK. You may have a seat in the jury box
16 to your left

17 Juror number 14, Erica Brinson (black female)

18 What says the State?

19 MR. GIBBONS. Please excuse Ms. Brinson from this
20 trial.

21 THE CLERK: You may return to your seat

22 Juror number 131, Timothy Stone (white male)

23 THE COURT. What number?

24 THE CLERK. 131 What says the State?

25 MR. GIBBONS Please present Mr Stone

SELECTION OF THE JURY

1 THE CLERK What says the defense?
2 MS STONEY: Please excuse Mr. Stone
3 THE CLERK. You may return to your seat.
4 Juror number 157, Karen Gutmann (white female).
5 THE COURT: What number?
6 THE CLERK 157 What says the State?
7 MR. GIBBONS. Please present Ms. Gutmann.
8 THE CLERK What says the defense?
9 MS STONEY: Please excuse this juror.
10 THE CLERK You may return to your seat The
11 State has excused one strike, the defense five
12 Juror number 96, Martin Pechersky (white male)
13 What says the State?
14 MR GIBBONS Please present Mr. Pechersky.
15 THE CLERK What says the defense?
16 MS STONEY: Please excuse this juror
17 THE CLERK. You may return to your seat.
18 Juror number 112, Judy Sanders (white female)
19 What says the State?
20 MR. GIBBONS: Please present Ms. Sanders
21 THE CLERK: What says the defense?
22 MS. STONEY Please seat the juror.
23 THE CLERK You may have a seat in the jury box
24 THE JUROR: Can I grab my snack back there?
25 THE COURT. Yes, ma'am. You sure may.

SELECTION OF THE JURY

1 THE CLERK. Juror number 162, Peter McKane (white
2 male) What says the State?

3 MR. GIBBONS. Please present Mr McKane

4 THE CLERK What says the defense?

5 MS. STONEY Please seat Mr. McKane

6 THE CLERK You may have a seat in the jury box
7 to your left.

8 Juror number 161, Harry Lowe (white male). What
9 says the State?

10 MR GIBBONS: Please present Mr. Lowe

11 THE CLERK: What says the defense?

12 MS. STONEY Please present Mr Lowe.

13 THE CLERK: You may have a seat in the jury box
14 to your left

15 Juror number 164, Halvey P. Perdue (white male).
16 What says the State?

17 MR GIBBONS: Please present Mr. Perdue

18 THE CLERK: What says the defense?

19 MS STONEY Please present Mr. Perdue.

20 THE CLERK. You may have a seat in the jury box
21 to your left

22 Juror number 102, Paul Richardson (white male)
23 What says the State?

24 MR. GIBBONS: Please present Mr Richardson.

25 THE CLERK. What says the defense?

SELECTION OF THE JURY

1 MS STONEY: I'm sorry What number?

2 THE CLERK 102.

3 MS. STONEY: Please present Mr. Richardson.

4 THE CLERK: You may have a seat in the jury box
5 to your left

6 Juror number 152, Randy Bull (white male) What
7 says the State?

8 MR. GIBBONS Please excuse Mr Bull from this
9 case

10 THE CLERK You may return to your seat

11 THE JUROR: Thank you.

12 THE CLERK Juror number 98, Asfer Pollock (black
13 male). What says the State?

14 MR GIBBONS. Please present Mr Pollock

15 THE CLERK: What says the defense?

16 MS STONEY: Please present Mr. Pollock.

17 THE CLERK. You may have a seat in the jury box
18 to your left.

19 Juror number 165, Darlene Tarvin (white female).
20 What says the State?

21 MR GIBBONS: Please present Ms. Tarvin

22 THE CLERK: What says the defense?

23 MS STONEY. Please present Ms. Tarvin.

24 THE CLERK: You may have a seat in the jury box
25 to your left. Alternates, Your Honor?

SELECTION OF THE JURY

1 THE COURT Yes, ma'am. At least two, maybe
2 three Two and one, ladies and gentlemen.

3 THE CLERK Alternate number one Juror number
4 107, Leo Roache (white male). What says the State? What
5 says the State?

6 MR. GIBBONS. Please seat Mr Roache.

7 THE CLERK: What says the defense?

8 MS STONEY Please excuse Mr Roache.

9 THE CLERK: You may return to your seat.

10 Juror number 122, Karen Skeen (white female).

11 What says the State?

12 MR GIBBONS. Please present Ms. Skeen

13 THE CLERK What says the defense?

14 MS STONEY: Please present Ms Skeen.

15 THE CLERK. You may have a seat in the jury box
16 to your left.

17 THE COURT Two and one again.

18 THE CLERK: Alternate number two, juror number
19 137, Brandon Thompson (white male). What says the State?

20 MR GIBBONS Please excuse Mr. Thompson from
21 this case.

22 THE CLERK: You may return to your seat.

23 Juror number 13, Joyie Bradley (black female)

24 What says the State?

25 MR. GIBBONS: Please present Ms. Bradley.

SELECTION OF THE JURY

1 THE CLERK: What says the defense?

2 MS STONEY Please present Ms Bradley.

3 THE COURT: Let me have one more.

4 THE CLERK Alternate number three. Juror number
5 61, Julia Johnson (white female). What says the State?

6 MR GIBBONS: Please present Ms Johnson.

7 THE CLERK: What says the defense?

8 MS STONEY Please present Ms. Johnson.

9 THE CLERK: You may have a seat in the jury box
10 to your left.

11 THE COURT Any motions on behalf of the
12 Defendant in connection with the drawing of the jury?

13 MS. STONEY No, Your Honor.

14 THE COURT: Motions on behalf of the State?

15 MR. GIBBONS: No, Your Honor

16 THE COURT: Mr Whittle, please tell my three
17 alternates when they -- when you get them seated where you
18 want to sit. Obviously the foreperson is going to sit
19 there. Let them go back and stretch their legs. Show
20 them where the jury room is. We'll get started in just a
21 few minutes Okay?

22 (Jury exits courtroom at 3 45 p m.)

23 THE COURT: Those of you who were not drawn, I'm
24 going to ask -- all of you have the call-back number?

25 Please come back tomorrow Tuesday after six I know we've

SELECTION OF THE JURY

1 got enough to keep us busy the rest of the afternoon and
2 tomorrow So call back and you'll get a message after six
3 tomorrow as to whether or not to report on Wednesday
4 morning, or call back Wednesday night at six Please
5 Have a very pleasant afternoon, a pleasant
6 tomorrow and I'll see you perhaps Wednesday, Thursday, or
7 you're free to go Thank you. Everybody else remain
8 seated.

9 (Jury panel exits courtroom.)

10 THE COURT Let the record reflect that juror
11 number 142, Emanuel Z. Wade was identified by members of
12 the solicitor's office as well as some of their witnesses
13 as someone who perhaps knew the Defendant as well as the
14 victim. I called him to the sidebar with both lawyers
15 present.

16 He informed me that he did know both the victim
17 and the Defendant and that he had in fact spoken
18 conversation with the Defendant's mom sometime prior to
19 the trial of this case. He had gone to school with some
20 of the others. It concerned me that he did not stand up
21 and reveal any of those facts to anybody, so I excused him
22 from the trial of this case.

23 Any objection on behalf of the Defendant?

24 MS. STONEY: No, Your Honor.

25 THE COURT: State?

SELECTION OF THE JURY

1 MR. GIBBONS: None, Your Honor

2 THE COURT: Also Ms Donna Busch. What is her
3 number?

4 THE CLERK: 153

5 THE COURT 153 Ms. Donna Busch, I noticed her
6 throughout the qualifications as well as the voir dire on
7 this particular trial She had put her head down between
8 her knees and she appeared to be crying in the audience.
9 I asked if there was any other questions or anybody that
10 needed to discuss anything with me. She came forward.
11 She was almost in tears, shaking visibly, unable to carry
12 on a conversation with me to the point I thought she was
13 going to break down standing right by me.

14 So from my observation and from looking at her in
15 the courtroom and from talking to her, I made my decision
16 that she was not capable of serving I want to put that
17 on the record She also came over to Ms Goddard and you
18 likewise sort of confirmed what I said, ma'am?

19 THE CLERK Yes, sir

20 THE COURT: Any comments on behalf of the
21 Defendant?

22 MS STONEY: No, Your Honor.

23 THE COURT The State?

24 MR. GIBBONS. No, sir

25 THE COURT Juror number nine, Ms. Eva Beach,

SELECTION OF THE JURY

1 informed our clerk even though she didn't stand up that
2 she had stitches in her face, nose, somewhere in her face
3 but that she had to have them removed tomorrow So I
4 protected her for tomorrow which required removing her
5 from the jury panel

6 Any objections on behalf of the State?

7 MR. GIBBONS None

8 THE COURT Defense?

9 MS. STONEY No, sir

10 THE COURT: Juror 47, Kathleen Greene, informed
11 the clerk that she just learned today of a death in her
12 family. She did not know yet the funeral arrangements and
13 we excused her from the trial of this case to protect her
14 until tomorrow at least

15 Any objection on behalf of the State?

16 MR GIBBONS: No, sir.

17 THE COURT: From the Defendant?

18 MS STONEY No, Your Honor

19 THE COURT: All right As to the first juror
20 drawn, juror number 82, McCarty, it was brought to my
21 attention that as he -- after he was accepted as a juror
22 on behalf of the State and the Defendant -- ma'am, what is
23 your name in blue, right here?

24 THE WOMAN: Beverly Forrest.

25 THE COURT That as he went into the jury box he

SELECTION OF THE JURY

1 waved to Ms. Beverly Forrest, who is, I think, the mother
2 of the Defendant I propose calling him out asking him if
3 he knows Ms Forrest, what his situation is with her and
4 why he waved to her.

5 Any objection on behalf of the State?

6 MR. GIBBONS No, Your Honor

7 THE COURT Any objection on behalf of the
8 Defendant?

9 MS STONEY: No, Your Honor

10 THE COURT Mr. Mert Holtzhouser,
11 H O L T Z H O U S E R., who is one of my
12 bailiffs, reported that he saw juror 82 wave to the
13 Defendant's mother Is that correct, Mr Holtzhouser?

14 THE BAILIFF Yes, sir. he waved to her and she
15 waved back.

16 THE COURT Thank you All right. Bring out
17 juror number 82, H. McCarty, please. McCarty

18 (Juror enters courtroom at 3 54 p m)

19 THE COURT Mr McCarty, how are you this
20 afternoon? How are you?

21 THE JUROR Fine

22 THE COURT: I remind you that you're still under
23 oath. It has been reported to me that when you were
24 chosen to serve on the jury that you waved to this lady in
25 the back of the courtroom in the blue outfit with the

SELECTION OF THE JURY

1 white collar Is that correct?

2 THE JUROR: Uh-huh.

3 THE COURT: Yes or no.

4 THE JUROR: Yes.

5 THE COURT: How do you know her?

6 THE JUROR: Used to work a long time ago. My
7 wife works with the City. I just know, you know, of --

8 THE COURT: Do you know who she is?

9 THE JUROR: Not directly.

10 THE COURT: Do you know who she is?

11 THE JUROR: Not right offhand.

12 THE COURT: Well, do you know --

13 THE JUROR: I mean, I've seen her, you know, but
14 names are hard to remember.

15 THE COURT: When I asked the questions earlier
16 today about whether or not any juror knew the potential
17 witnesses --

18 THE JUROR: Uh-huh.

19 THE COURT: -- and she was a potential witness,
20 Ms. Forrest, you did not stand and tell me that, did you?

21 THE JUROR: Well, I probably misunderstood.

22 THE COURT: But you know her well enough to have
23 waved to her as you were going to the jury box.

24 THE JUROR: Well, yeah.

25 THE COURT: I'm not fussing.

SELECTION OF THE JURY

1 THE JUROR I'm yeah

2 THE COURT: I'm not fussing at all.

3 THE JUROR: I know faces, you know

4 THE COURT All right. I'm going to excuse this
5 juror from the trial of the case. All right. You're
6 excused. Come right over here.

7 THE CLERK Just the trial only?

8 THE COURT Ma'am?

9 THE CLERK: Just the trial only?

10 THE COURT Yes, ma'am You need to call back
11 after six. She'll tell you. Thank you. Take care of
12 that baby, the seven year old

13 Madam clerk, please put into the hat juror 122,
14 13, and 61 and draw me a name

15 THE CLERK: (Complies). Juror 122, Karen Skeen.

16 THE COURT We'll elevate Ms. Karen Skeen to the
17 regular jury panel

18 Now --

19 MR BAILIFF: Have they got time to smoke?

20 THE COURT You know, we got a doctor waiting
21 Let's get started. We'll give them a smoke break. Any
22 objection on behalf of the State of my decision on juror
23 number 82?

24 MR GIBBONS No, sir

25 THE COURT On behalf of the Defendant?

SELECTION OF THE JURY

1 MS STONEY: No, Your Honor.

2 THE COURT: Thank you Any objection to my
3 randomly drawing between the three alternates for
4 replacement of the jury by the State?

5 MR. GIBBONS No, Your Honor

6 THE COURT: Defense?

7 MS STONEY: No, Your Honor.

8 THE COURT. Thank you Mr Gibbons, are you
9 ready to make your opening statement?

10 MR GIBBONS: I am.

11 THE COURT Ma'am?

12 MS STONEY Yes, sir, Your Honor

13 (Whereupon a break was taken.)

14 (Jury enters courtroom at 4 10 p m.)

15 THE COURT Ms Skeen, you have now been elevated
16 to the juror status Did they tell you that?

17 THE JUROR No, it's what I figured.

18 THE COURT: You figured that He'll give you the
19 right button in just a few minutes. Ms. Sanders

20 THE JUROR: Yes, sir.

21 THE COURT: How are you?

22 THE JUROR: I'm fine, sir

23 THE COURT: Would you do me a favor? Would you
24 serve as my foreperson?

25 FOREPERSON OF THE JURY: Yes, sir. I would, Your

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 Honor They already elected me

2 THE COURT Good Well, I didn't know that. Why
3 don't you have a seat down here for me? Head of the
4 household

5 FOREPERSON OF THE JURY Okay We can do that.

6 THE COURT. Ms Skeen, I'm going to let you move
7 down here for me One day I'll tell you my criteria for
8 choosing a foreperson

9 FOREPERSON OF THE JURY: Okay

10 THE COURT. You might not like it. The first
11 thing we have to do is have the jury sworn in for this
12 particular case So if you would please stand and the
13 clerk will administer the oath for this case

14 (Jury impaneled)

15 THE CLERK. You may be seated.

16 THE COURT Thank you. Now, madam forelady,
17 ladies and gentlemen of the jury. Let me tell you what
18 we're going to do this afternoon In just a few minutes
19 I'm going to give you a few opening remarks about what
20 your duties are and what my duties are. That will be
21 followed by the opening statements from both lawyers.

22 I know we're going to try to do at least one
23 witness this afternoon. That may take us a little beyond
24 five o'clock but because of some scheduling concerns the
25 first witness is a pathologist who perhaps is subpoenaed

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 to three courts today and we're trying to work around her
2 schedule so if we go over bit over this afternoon I'll
3 make it up to you tomorrow.

4 If at any time during the trial of the case any
5 of you become uncomfortable, need a bathroom break, a
6 glass of water or a Coke or whatever, you just raise your
7 hand I'll stop everything and make sure your needs are
8 met. We're not in here for any type of endurance or
9 anything else We want you to be comfortable. So if you
10 have any personal problems, bathroom breaks or anything,
11 just raise your hand If you get tired of sitting, raise
12 your hand and tell me and I will see that your needs are
13 met

14 I will try to run court every day from about 9:30
15 to our lunch break. And then we'll take an hour, hour and
16 a half for lunch and start back up Probably try to run
17 until about five o'clock in afternoon so if anybody has
18 any personal problems with five in the afternoon you let
19 the foreperson know and she will communicate with me about
20 needs and I'll try to ask you each day if 9:30 is okay in
21 the morning or ten o'clock or how late can we go today
22 because we got so much tomorrow. We'll just get your
23 input on that as much as we can

24 Let me give you a few opening remarks in the
25 case. These are obviously not anything but opening

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 remarks I just want to tell you and explain to you the
2 procedures we'll go through

3 As I told you when we qualified the jury, the
4 Defendant in this case is charged in two indictments.
5 He's charged with the crime of murder, and the crime of
6 possession of a firearm during the commission of a, or
7 attempt to commit a violent crime.

8 I will explain to you the elements of these
9 various offenses at the conclusion of the case. These two
10 indictments are simply the charge by which the Defendant
11 is brought into this courtroom It is not evidence of
12 anything in the case It's simply allegations that the
13 State must prove beyond a reasonable doubt to you.

14 As to each of these indictments the Defendant has
15 pled not guilty and that puts the burden of proof on the
16 State of South Carolina to prove, as I said, each and
17 every element of each indictment beyond a reasonable
18 doubt And it will become your duty to determine whether
19 or not at the conclusion of the case if the State has met
20 that burden

21 Now, you and I have two different functions to
22 perform. Not me, but my position. I have two main things
23 to do. Number one, I am the judge of the law in the
24 case. So you have to accept the law as I give it to you
25 at the end of the case and throughout the case. If you

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 have some preconceived idea about what the law is or what
2 it should be and it does not agree with what I tell you,
3 you've taken an oath to set aside that preconceived idea
4 and accept the law as I give it to you. In other words,
5 the law as I state it to you is the law that you must
6 apply in this case.

7 My other function is to determine what is
8 admitted into the trial of the case. And what I mean by
9 that is, what you will be able to decide on comes from the
10 sworn testimony from the witness stand or from any other
11 documents or demonstrative evidence or whatever that is
12 relevant to the trial of the case and any stipulations
13 that may be entered between the parties.

14 90 percent of what you hear or perhaps 95 or
15 perhaps 99 percent of what you hear will be admitted into
16 the trial of the case. We have rules of evidence and all
17 the lawyers play within the rules. If they ask something
18 that is improper or something that I rule out, I'll tell
19 you not to consider that. But it's my job to preside over
20 the admissibility of the evidence.

21 Once it is admitted into the trial of the case it
22 becomes up to you to determine who and what you believe.
23 You 12 collectively acting as one, you are the judges of
24 the facts of the case. So you judge and determine what
25 the true facts are in the case. And you take those true

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 facts as you find them to be and you apply it to the law
2 as I give it to you and then you're in a position to
3 render a true and a just verdict in the case

4 In other words, you have to decide who and what
5 you believe after it's admitted into the trial of the
6 Case and you'll find, as in most lawsuits, that there will
7 be wide ranges of what the facts are. So you determine
8 what the true facts are. You determine credibility or
9 believability of the witnesses.

10 Another thing I will tell you throughout the
11 trial is that please do not start your deliberations at
12 any time until I tell you to do so and that will be after
13 all the evidence is in, the lawyers have made their final
14 arguments and at that time you can start your
15 deliberations. So when you go back to the jury room at
16 breaks or lunch or over the evening, I will tell you each
17 time, do not start your deliberations.

18 Madam Forelady, that is one of your duties. If
19 anybody tries to talk about the case, please remind them
20 that as I've instructed you, you cannot talk about the
21 case. You can talk about whatever you want to back there
22 but don't start talking about the case until it is over.
23 It might be that last witness or that last argument that
24 sways or changes your mind. So, please, don't talk about
25 or deliberate the case until it is totally and completely

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 finished

2 And as we take breaks for the evening, I will
3 further tell you, please do not talk to family or friends
4 about the case. We have some press in the courtroom so
5 there may be some articles in the newspaper tomorrow. We
6 welcome the press. There may be something on the TV. I
7 would ask that you not read any newspaper articles or see
8 anything in the TV. It may be something that I said while
9 y'all were in your jury room or something else.

10 It's a very, very serious case and what I stress
11 and urge you to do is let's try it based solely on what
12 you hear in the courtroom and with no influence from the
13 outside. If you do that it will be a fair trial both for
14 the State and for the Defendant.

15 If anyone tries to discuss the case with you,
16 please tell them that you're on jury and you can't discuss
17 the case. If they insist on talking to you about the
18 case, please get their names and I will deal with them
19 appropriately at the appropriate time.

20 It will be your solemn responsibility to
21 determine the guilt or innocence of the Defendant. And
22 your verdict must be based solely on the evidence as you
23 hear it from the courtroom and not influenced by anything
24 outside of this case.

25 In just a few minutes the solicitor will make an

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 opening statement followed by the Defendant. So, please
2 bear in mind that the opening statements, that is not
3 evidence in the case. That is simply what the solicitor
4 says he intends to prove, and what the Defendant tells
5 that you she, her position will be.

6 The only evidence that you can consider comes
7 from the sworn testimony from the witness stand. So
8 please, please remember that the opening statements is
9 not, not evidence in the case

10 As I said, it's my responsibility to rule whether
11 or not evidence is admissible. It's up to you to decide
12 whether you believe it. In deciding whether to believe a
13 witness you have the right to consider the interests of
14 any witness, the bias of any witness, the prejudice of any
15 witness, the opportunity for the witness to have seen the
16 matters about which he or she testifies and even the way
17 the witness looks on the witness stand and acts on the
18 witness stand

19 You have a right to consider anything that is in
20 the record that will help you evaluate the testimony So
21 I ask that you pay close attention to everyone so you'll
22 be in a position at the conclusion of the case to decide
23 what the true facts are and to apply those to the law as I
24 charge it to you at the conclusion of the case.

25 The way the case is tried is since the State of

OPENING STATEMENTS ON BEHALF OF THE STATE

1 South Carolina has the burden of proof, they put up their
2 case first. They've got the burden of proof And then
3 the Defendant, if he chooses, has the right to put up his
4 case And then perhaps we can have reply testimony.

5 After all of that is done, then the lawyers from
6 each side will make closing arguments and then I charge
7 you on the law or instruct you on the law and then it will
8 be turned over to you for your discussions.

9 As I said, at any time during the trial of the
10 case you need to stop, slow down, take a break, you raise
11 your hand I'll make sure that your needs are met and we
12 will all find this to be an interesting exercise

13 It's tough, I know, being away from your family
14 and your business but we cannot run our court system
15 without jurors. And we appreciate you being here and your
16 willingness to serve.

17 Any exceptions to my opening remarks by the
18 State?

19 MR GIBBONS: None, Your Honor

20 THE COURT: By the Defendant?

21 MS. STONEY None, Your Honor

22 THE COURT Thank you. Mr. Gibbons.

23 MR GIBBONS: May it please the Court.

24 THE COURT Yes.

25 MR GIBBONS: Ms Stoney, madam forelady, ladies

OPENING STATEMENTS ON BEHALF OF THE STATE

1 and gentlemen of the jury.

2 I'd like to talk to you a little bit now about
3 two parties The first party took place about a month
4 ago I took my son and about ten little seven-year-olds
5 to Chuckie Cheese and after the parties was over and on
6 the ride home I listened to what they had to say. Some
7 thought that the best part was the cake Some thought the
8 best part was the pizza Some thought it was the games.
9 Some wished the pizza had been a different kind. Some
10 wished the cake had been a different kind. Everybody
11 seemed to focus on a different part of that party at
12 Chuckie Cheese.

13 But they are all clear on a few things They all
14 know whose birthday it was They all knew who blew out
15 the candles They all knew who opened all the presents.
16 They may have had different opinions about some of the
17 side issues but on the main issue they were all in
18 agreement. They knew what happened

19 Well, why am I telling you that? There was
20 another party, December 4, one year ago today All out
21 off Highway 19 at a place called the Elks Club that's
22 rented out to people who are having parties And there
23 was a party that night

24 It was a lot different than the party I told you
25 about a few minutes ago because when this party ended or

OPENING STATEMENTS ON BEHALF OF THE STATE

1 broke up, Mario Reddish was rushed to the hospital and was
2 killed at the breakup of that party. He didn't make it
3 home from that party

4 Now, today and tomorrow you're going to hear
5 testimony from the people involved in this case. And
6 you're going to hear different points of view that people
7 saw, people experienced as this event transpired.

8 I want to remind you how quick and point out to
9 you how quick something like this comes across. And
10 someone loses their life

11 We're going to pull a big magnifying glass out
12 and examine the last moments of Mario Reddish's life. And
13 it will be your job at the end of this case to determine,
14 just like in the other party, who was there, why were they
15 there, who shot Mario Reddish.

16 Now when you come in and serve on a jury, you
17 know, we don't have jury school where you go and learn
18 what your job is here, exactly how you go about making
19 decisions and what things you should pay attention to
20 because your job sitting in those chairs with those badges
21 is all about common sense. The common sense you use
22 everyday when you're making decisions in your life, when
23 you're deciding what you're going to do with your day,
24 what you're going to do after work, those are the kinds of
25 decisions you're going to have to make You're going to

OPENING STATEMENTS ON BEHALF OF THE STATE

1 listen to people tell you what they saw, what they heard,
2 what they found, maybe what they examined in relation to
3 that little block of time, the last few minutes of his
4 life. And you're going to have to take those facts and
5 come up with a verdict based on those facts.

6 Now the Judge is going to tell you at the end of
7 case what the law is. And you're going to take that law,
8 apply it to the facts that you as a group find have been
9 proven beyond a reasonable doubt and come back with a
10 decision in this case

11 And we, both sides picked you this afternoon
12 because we felt that you could be fair, that you would
13 listen to all the facts and apply the law as the Judge
14 gives it to you and come back with a verdict that does
15 speak the truth

16 Now Joshua Forrest is charged with two counts
17 And the Judge will explain to you the law at the end of
18 this case He is charged with murder In South Carolina
19 murder is the killing of another with malice
20 aforethought. That's legal words and the Judge will
21 explain them to you at the end of the trial but malice is
22 ill will Some other terms are heart bent on mischief,
23 ill will to another.

24 Aforethought in our State means that the killing
25 took place after someone has thought about doing the act

OPENING STATEMENTS ON BEHALF OF THE STATE

1 that causes it It doesn't have to exist for any period
2 of time There's no magic ten seconds, 15 seconds, ten
3 minutes. It just has to be present before the killing is
4 done That malice or ill will to another has to be
5 present when the killing is done

6 Now this party that was going on was at the Elks
7 Club. And you're going hear, I believe, from the
8 witnesses They're going to tell you that there was an
9 argument between Joshua Forrest, sitting at the table over
10 there, and a female They were arguing about a car
11 title They were arguing about a hat and maybe some shoes
12 that she had purchased from Mr. Forrest They were
13 arguing inside the club.

14 And at some point they left and went out in front
15 of the club And that's where this incident took place.
16 I believe the evidence will show that there were other
17 people there who tried to get in the middle between this
18 argument that was escalating outside And that at some
19 point James Forrest -- excuse me, Joshua Forrest pulled
20 out a gun and fired it And then he and Mr. Reddish
21 locked up, chest to chest Two more shots rang out
22 Mr. Reddish slumped to the ground Mr Forrest left the
23 scene. Friends rushed over, picked up Mario, put him in
24 their car and drove him to the hospital but it was too
25 late for him. He had been shot.

OPENING STATEMENTS ON BEHALF OF THE STATE

1 You're going to hear what the officers did. What
2 they could do at that point in time as far as
3 investigating this crime. You know, right here I want to
4 remind you that this is the real world This happened
5 right here in Aiken County not too far from here, within a
6 couple of miles This didn't happen on a movie set. This
7 didn't happen on Law and Order or CSI or anything like
8 this. This is the real world, real situation, real lives,
9 real facts You just have to work with what you get.

10 The officers will tell you what they collected at
11 the scene, what they investigated, who they talked to
12 You're going to hear at some point, I believe, that they
13 talked to the Defendant. You're going to hear what he had
14 to say on the day after this thing happened

15 I ask you to pay careful attention because this
16 case isn't going to involve numbers. It's not going to
17 involve chemical formulas. It's not going to involve what
18 they found under a microscope It's going be common
19 sense

20 You're going to listen to people who are simply
21 going to tell what you they saw, what they heard, what
22 they did Then you're going to have to decide what the
23 story is after you've heard all of that. Like I said
24 before, it's going to be a common sense case from the
25 start to the finish.

OPENING STATEMENTS ON BEHALF OF THE STATE

1 Mr. Forrest sits over there presumed innocent
2 That's the way our country works. That's the way our law
3 works And he remains presumed innocent until the State
4 proves his guilt beyond a reasonable doubt.

5 And the Judge will define that term for you at
6 the end of the case because that's very important. So the
7 term is reasonable doubt. What's reasonable? Not beyond
8 a shadow of a doubt, not beyond any doubt, not beyond all
9 doubt Because if you apply those standards you're not
10 living up to the oath that you swore a few minutes ago.
11 He'll tell you it's beyond a reasonable doubt After
12 you've heard everybody's story, after you've seen all the
13 evidence, what is reasonable. What makes sense. After
14 you've seen these witnesses and you've seen the evidence
15 involved in this case, and you've applied your common
16 sense and the law as the Judge defines it for you, I
17 believe there is only one verdict that is the appropriate
18 verdict in this case. That would be a verdict of guilty
19 on both counts

20 Murder in our state is considered a violent
21 crime. So if someone commits a murder and while in the
22 commission of that having a firearm, the South Carolina
23 law charges a separate offense for having a firearm.

24 Those are the two indictments that you are going
25 to have to deal with in the jury room. As I said before,

OPENING STATEMENTS ON BEHALF OF THE STATE

1 this is real life. This isn't something that's
2 rehearsed. This is something that was happening to people
3 as it was going on. I'll be up front with you. There is
4 a short piece of video that I believe that you're going to
5 see during this case. And it is of Mr. Forrest having his
6 rights read to him.

7 You're going to hear from the officers that they
8 attempted to record the whole conversation they had with
9 him on that day. They had some difficulties and some of
10 it didn't record. And they're going to talk to you about
11 that and they're going to explain to you what they tried
12 to do, and what ended up happening but they're still going
13 to tell you what they did that day, what they heard and
14 what they said. But I want you to know that that is
15 coming.

16 Once again, I thank you for your service. This
17 isn't an easy job. There are a lot of things you'd rather
18 be doing, I'm sure, but this is an important case to the
19 people of Aiken County, to this community. And I would
20 ask you to treat it with the importance that it deserves.

21 This is as real as it gets. This is a murder
22 trial. And I would ask you to pay attention and treat it
23 as a very serious case. Think hard, think well and I know
24 that when you do that you will come up with the
25 appropriate verdict and I hope you do.

OPENING STATEMENTS ON BEHALF OF THE DEFENDANT

1 Thank you.

2 OPENING STATEMENT

3 MS. STONEY May it please the Court,

4 Mr. Gibbons, ladies and gentlemen I brought my notes up
5 here I'm getting to that age where if I don't bring my
6 notes things just disappear out of my head. So excuse me
7 if I use them every once in a while.

8 There's many things that the prosecution and I
9 can agree on. For one thing, my client was there the
10 night that Mario Reddish was killed There was a party
11 and one of the State's witnesses attacked my client inside
12 the Elks Club And I don't know what they were fighting
13 about. The State says they were fighting about a car
14 title or a hat or some shoes

15 I do know that she was an ex-girlfriend of my
16 client and they got into an argument. He tried to leave
17 He walked outside of the building and she followed him
18 along with several of her friends, most of them male One
19 of them was the victim, Mario Reddish

20 At that time they followed him out into the
21 parking lot and Mario punched Joshua in the mouth. You'll
22 see pictures where he was injured He tried to leave, and
23 was unable to leave. Some of the other people were trying
24 to attack him. Eventually shots rang out and everyone
25 began to run, including Joshua. Many people left the

OPENING STATEMENTS ON BEHALF OF THE DEFENDANT

1 scene, not just my client

2 Many people left the scene at that time They
3 were afraid of the gunshots as anyone would be. This is
4 very much like Mr Gibbons' birthday party except they
5 agree on the cake and they agree on the pizza. They don't
6 agree on whose birthday party it was. They don't agree on
7 who blew out the candles The witnesses do not agree on
8 who killed Mario Reddish

9 I would ask for you to look at the credibility of
10 the witnesses Most of the State's witnesses that were
11 there are going to be friends of both Tamika -- I'm
12 sorry. Her last name escapes me Tamika Campbell. She
13 was the one who attacked my client and also friends of
14 Mario Reddish Our witnesses are friends of our client.
15 All of these people knew each other. That's just the way
16 it's going to be. Two different sets of people seeing two
17 separate things

18 I would ask you to just look at the credibility
19 of the witnesses, whether or not you believe what they're
20 saying Most of the witnesses did not see a gun There
21 were a couple of witnesses that claimed that they did.
22 But most the witnesses did not see a gun, did not know
23 what happened, just heard gunshots

24 They saw a white Lincoln leave the scene which
25 was my client One of the witnesses also claims to have

ROSS - DIRECT

1 seen a black car leave the scene There is no indication
2 of who it was in that black car, just somebody leaving
3 There were shots that rang out towards my client's car and
4 as he was leaving the scene, and they don't know who it
5 was that shot. Apparently they did not hit the car.
6 There were no bullet holes in the car.

7 However the witnesses will tell you that they did
8 see someone shooting at the car that my client was in
9 This case just comes down to who shot Mario Reddish
10 You're going to hear many different people say that they
11 really just don't know. They did not see what happened.
12 They just know that all of a sudden Mario was shot.

13 I would just ask for you to listen to the
14 evidence, to look at the credibility of the witnesses,
15 remember who, that they are for, who it is that their
16 friends are. And I believe that after this is all over
17 with that you will return a verdict of truth that my
18 client is not guilty. Thank you

19 THE COURT Call your first witness.

20 MR. GIBBONS Your Honor, for scheduling reasons
21 we'd like to call Dr. Ross out of order Dr. Janice Ross.

22 JANICE EDWARDS ROSS, having been duly sworn, was
23 examined and testified as follows:

24 THE CLERK. Have a seat in the witness box,
25 stating your full name name for the Court, spelling your

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1 last, please.

2 THE WITNESS Janice Edwards Ross R. O. S. S.

3 DIRECT EXAMINATION

4 BY MR. GIBBONS:

5 Q. Dr. Ross, where are you employed?

6 A. In Newberry at Newberry Pathology Associates

7 Q. What is your job position there?

8 A I'm a forensic pathologist

9 Q. Dr. Ross, for the jury's sake, could you tell us what
10 exactly that term means?

11 A Yes, sir I have gone through medical school and then
12 through training in pathology Some people go into
13 surgery, some go into pediatrics. I went into pathology.
14 We have a training of pathology which is the study of
15 diseases What we do is use our, the microscope. We look
16 at tissue that comes out of you from surgery and
17 identifying by looking at it and by looking at it under
18 the microscope whether you have cancer or not We use
19 blood work and other analyzes in order to help diagnose
20 what diseases you may have. So that's the field of
21 pathology.

22 The word forensic means legal So a forensic
23 pathologist uses that knowledge of pathology on legal
24 matters such as homicides, accidents, natural disease We
25 are trained to do autopsies in such a manner as to find a

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1 cause of death by using all those methods.

2 Q. What kind of training did you go to become a forensic
3 pathologist?

4 A Four years of college, four years of medical school,
5 four years of pathology training plus extra training for
6 forensic pathology, and then you take exams in order to be
7 certified in those areas

8 Q. And where did you take your training?

9 A. At Upstate Medical Center in Syracuse, New York.

10 Q. Are you a licensed physician --

11 A Yes

12 Q -- in the field of forensic Pathology?

13 A Yes

14 Q And how long have you been in the field of forensic
15 pathology?

16 A. 30 years

17 Q. And as a guestimate of how many autopsies that you've
18 performed?

19 A At least 5,000.

20 Q Now back -- Your Honor, I'd like to move that she be
21 qualified as an expert in the field of forensic
22 pathology

23 THE COURT: Any objection, ma'am?

24 MS STONEY No objection.

25 THE COURT Madam Forelady and ladies and

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1 gentlemen of the jury, normally our rules of evidence do
2 not allow someone to give an opinion about anything when
3 they testify. You can only testify about matters you see,
4 hear, smell, touch; those sorts of things.

5 There is an exception in our rules of evidence
6 where someone is qualified by way of education and/or
7 experience then they can give an opinion in the field if
8 they're so qualified. And Dr. Ross is qualified as a
9 pathologist and would be able to state an opinion as to
10 the cause of death.

11 So please accept her opinion and give it whatever
12 weight you deem necessary, if any.

13 MR GIBBONS: Thank you, Your Honor

14 BY MR GIBBONS:

15 Q Dr. Ross, were you involved in an autopsy of Mario
16 Reddish?

17 A Yes, I was

18 Q Does your office send people out in the field to do
19 this kind of work?

20 A No, sir We are authorized and requested to do an
21 autopsy on the victims from different counties and this
22 county, it's authorized by the county coroner.

23 Q So you don't go out to the crime scene; correct?

24 A That's correct.

25 Q What generally triggers y'all knowing that you're

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1 going have a case to work on?

2 A We're called by the coroner's department and we set up
3 a time for them to bring the body to Newberry County
4 Memorial Hospital where we do the autopsy.

5 Q Did they give you any kind of information along with
6 that notice that they're coming?

7 A Yes. They give us a scenario and name, et cetera

8 Q And did you get information regarding this incident?

9 A Yes

10 Q Do you remember what they told you to expect or what
11 was being delivered?

12 A That there was an altercation at an Elks Club and that
13 there, the victim was shot

14 Q And did you personally participate in the autopsy of
15 Mario Reddish's remains?

16 A Yes

17 Q Could you tell the jury what you did and why you did
18 it?

19 A Yes. First of all, we received the body without
20 clothing So we do an external examination and take
21 photographs of everything Then subsequently we will do
22 an internal examination to look for internal injuries
23 and/or natural disease.

24 Q And what were your findings in this case?

25 A We found two gunshot wounds, one in the chest and one

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1 in the side of the abdomen.

2 Q Now when you're doing this examination you found these
3 gunshot wounds, are there certain limitations as far as
4 timing and things like that that you have insofar as
5 determining what caused the injuries, which one is first,
6 which one is second?

7 A. Yes, sir. We -- it's very difficult to tell which one
8 came first Correct

9 Q. Is that a general rule on most injuries that you get
10 through your office?

11 A. Yes.

12 Q. And you received his remains the next day after this
13 incident?

14 A. Yes.

15 Q. Correct?

16 A. Yes.

17 Q On the 5th?

18 A Yes

19 MR. GIBBONS Court's indulgence, Your Honor
20 Let me see if I got an easel right here.

21 BY MR. GIBBONS

22 Q. Dr. Ross, where -- are you going to be okay with your
23 people back there? If I can figure out this -- I'll be
24 doing better.

25 THE COURT: I don't think that's how that thing

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1 works.

2 MR GIBBONS I battered that.

3 THE COURT: Let Mr Whittle help you.

4 (Pause)

5 MR GIBBONS I was just not strong enough. I
6 need a real man I prepared a diagram and showed it to
7 the defense It's State's Exhibit Number 11. I'd like
8 for Dr. Ross to come down and illustrate the injuries that
9 Mr. Reddish sustained

10 THE COURT Certainly.

11 BY MR GIBBONS:

12 Q Dr. Ross, I've got a marker Just show the jury what
13 your findings were

14 A. One wound went into the left chest here It was an
15 entrance wound It went from the left to right, slightly
16 backwards, slightly upwards So it went sort of like this
17 and the bullet was found on the right side of the chest
18 underneath the skin.

19 Q So it didn't go all the way through?

20 A. Correct When it went through the chest, it went
21 through the lower lobe of both lungs and it also went
22 through the spinal cord in the middle. It caused a lot of
23 bleeding inside the chest cavity, 1100 cc's of blood in one
24 side. That's about four quarts, I guess And a couple
25 quarts, 500 cc's, in the right chest.

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1 Q. And how much does a body have, given someone that
2 size?

3 A. Depending on the size, he probably had maybe 11 to 12
4 quarts -- pints, actually. It was pints and not quarts.
5 Sorry.

6 The second wound went into the left side. And it just
7 stayed underneath the skin, went backwards. It came out
8 the left back. Again, that just went underneath the skin
9 but this had a pattern around it of an actual muzzle
10 imprint. So it was a contact wound. The muzzle of the
11 gun was against the skin.

12 Q. What is -- why is that significant?

13 A. Just showing that it's a contact wound.

14 Q. Does it make a different type of wound when it's a
15 contact wound?

16 A. Yes. You can actually see kind of the bruises in the
17 skin around the entrance wound where the actual muzzle of
18 the gun was against, the metal of the gun.

19 Q. Now, what are the different types of distances that
20 you labeled? There's contact. What else is there?

21 A. There is contact and intermediate and distant. And
22 the intermediate and distant, how far they are from the
23 muzzle from the skin. It's going to vary a little bit
24 depending on the type of gun, the caliber, et cetera

25 The -- when a bullet comes out of the gun so does

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1 powder and soot And those two entities, the powder and
2 soot, only go a certain distance So if the gun is close
3 enough to shoot the bullet along with the soot and powder,
4 if it's close enough you'll see evidence of soot and
5 powder around the entrance wound That's usually within a
6 couple of feet That's a general statement but, again, it
7 depends on the gun, the caliber.

8 If it's further from that, further away than two feet,
9 two or three feet, maybe five feet, maybe 15 feet, you
10 won't have any of the powder or the stippling caused by
11 the powder or the soot.

12 Q What happens with the powder and soot on the contact?

13 A It's incorporated. It goes right in the skin.

14 Q It goes inside?

15 A Yes.

16 Q So you don't really have the little dots around the
17 hole; is what you're saying?

18 A. Exactly

19 Q. And you classified when you labeled the second injury
20 as a contact wound?

21 A. Yes.

22 Q. Was it the fatal wound?

23 A No

24 Q The other wound, were you able to draw any conclusion
25 about the distance away the gun was from that one?

ROSS - DIRECT

1 A Not really We didn't have a shirt We did not have
2 any evidence of soot or powder stippling or burning which
3 is tattooing. But, again, there was -- he had a shirt on
4 that we didn't see and the soot and powder sometimes is
5 caught in the shirt and not on the skin.

6 Q. So, what did you classify that?

7 A. Well, it's not a contact wound We didn't classify
8 it. What's important is what's on the shirt but it's not
9 a contact wound It could be two feet away, it could be
10 several feet away

11 Q Far enough away that the soot didn't get all the way
12 through to the skin?

13 A Yes

14 Q Now you said that that clipped both lungs and the
15 spinal cord?

16 A. Yes

17 Q What would you expect to be his condition immediately
18 following that?

19 A Well, hitting the spinal cord would make him
20 essentially paralyzed He would drop at that point

21 Q. Had this happened in the parking lot of the trauma
22 unit, would he have been able -- would they have been able
23 to do a whole lot for Mr Reddish at that point?

24 A If they got him in and closed up the holes in the
25 lungs fast enough. Lungs when they have a hole in them

ROSS - DIRECT

1 will keep bleeding They just don't clog They just
2 don't close themselves up like maybe skin will do so. So
3 they have to actually go in and close those up. So it
4 would have to -- I mean, he would have to really be rushed
5 to the operating room

6 Q Did you make a classification as to the length of time
7 between the injury and the death?

8 A Yes

9 Q. And did you do that in this case?

10 A. Yes

11 Q What was your opinion in this case?

12 A Within minutes. It could be up to five

13 Q Now you've got the angles drawn on there. Could you
14 maybe demonstrate a little clearer what angle was on what
15 you call shot number two?

16 A Shot number two went straight back and actually very,
17 very slightly downwards.

18 Q. So it wasn't traveling up or traveling down, it was
19 almost flat?

20 A Correct.

21 Q. And what about the other chest wound?

22 A. This one was going various from left to right and
23 slightly upward.

24 Q. But at different angles. It looks like one is going
25 across the body?

ROSS - CROSS

1 A One is going straight back and the other one is going
2 sideways

3 Q So two different angles?

4 A Yes

5 Q. Did you make any other findings that indicated the
6 struggle or anything of that nature?

7 A No, sir

8 Q Now -- thank you You can have a seat

9 A (Complying)

10 Q Dr. Ross, are there classifications that you assign to
11 different types of deaths as part of your job?

12 A Yes Part of our job is to identify the manner of
13 death. The cause of death is what actually caused the
14 person to die Obviously The manner of death is the way
15 in which that cause of death came about.

16 And there are five classifications. There is natural
17 death, like heart disease There is suicide, homicide,
18 accident, and sometimes you just have to say it's
19 undetermined

20 Q. Did you make a determination or opinion in this case?

21 A. Yes.

22 Q And what was that finding?

23 A It's a homicide

24 MR GIBBONS Thank you. Answer any questions

25 Ms. Stoney has please.

ROSS - CROSS

1 THE COURT. Ms. Stoney, please, if any

2 CROSS-EXAMINATION

3 BY MS STONEY:

4 Q Dr. Ross, is it possible that moving the body had
5 anything to do with the death?

6 A No, ma'am. I don't believe so.

7 Q So it was just the gunshot wound?

8 A. Yes

9 Q. With the contact wound, would there have been blood
10 splattered back onto the person who was doing the
11 shooting?

12 A Not necessarily because the wound just went underneath
13 the skin. It didn't hit any arteries. It would have,
14 that would have high-pressure blood, bleeding, plus the
15 muzzle was right up against the skin. And it would form,
16 it would be enclosed. That wound would be enclosed so
17 anything splashing back would be caught on the gun.

18 Q. And with the other wound, the one that actually killed
19 Mr. Reddish, is there any way of determining whether or
20 not there would have been any blood splatter in that one?

21 A No, because I don't have the shirt but if it were -- I
22 wouldn't expect it to blow back much of anything
23 actually. The bleeding occurred inside the chest wall.
24 And, again, there was no superficial artery that would
25 start spurting

1 Q Is there any way to determine based on how far the
2 bullet traveled approximately how far away the person was
3 who shot it?

4 A No, it's not.

5 MS. STONEY: One second, please

6 (Pause)

7 MS. STONEY No more questions, Your Honor.

8 THE COURT Redirect?

9 MR. GIBBONS Your Honor, I have nothing
10 further I ask that she be excused at this time

11 THE COURT: Dr. Ross, thank you Good to see you
12 again You know my son's name's Ross

13 (Pause)

14 THE COURT Mr Gibbons, let me see you and

15 Ms. Stoney

16 MR GIBBONS Yes, sir

17 (Off-the-record discussion, sidebar.)

18 THE COURT: Madam Forelady and ladies and
19 gentlemen, we're going to break for the evening A couple
20 of things. Once again, I remind you, do not start your
21 deliberations. Don't talk about the case among
22 yourselves When you go home tonight please don't discuss
23 it with anyone or let anyone discuss it with you.

24 I see one juror taking notes Notes are -- I
25 either got to let everybody take notes or nobody take

1 notes. I normally -- I assume those are notes. It might
2 be something else. Normally in a short trial I do not
3 allow note taking because some people are better note
4 takers than others

5 So this is just going to be a two, two and a half
6 day trial. It's not like a three-week trial where I would
7 let you take notes or a three-week trial. I would ask
8 that you not take notes, please.

9 Would 9.30 or 9:45 be okay tomorrow morning? I
10 got a phone conference at 9.30. I don't want y'all
11 sitting around waiting. Let's say 9 45 Is that okay?

12 I will have hot coffee for you in the morning I
13 will either have doughnuts or sausage biscuits. Which
14 would you rather have?

15 FOREPERSON OF THE JURY: Either-or.

16 THE COURT Last week I tried a case in Columbia
17 and the forelady said both I'll have some sausage
18 biscuits and doughnuts. It's Christmas time so I want
19 y'all to have a very pleasant evening. Please be on time
20 in the morning I'm going to start at 9:45 so if you want
21 your sausage biscuits and your doughnuts and coffee, come
22 a little bit early

23 Mr. Whittle will show you where to report. He'll
24 show you how to get up and all of that. Y'all have a very
25 pleasant evening and just give those to Mr. Whittle

1 because I'm not going to look at them We're going to
2 probably just tear them up. I don't mean that --

3 THE JUROR I write on the back of my -- so I
4 might need it

5 THE COURT We'll get you another one. Y'all
6 have a wonderful evening

7 (Jury exits courtroom at five o'clock)

8 THE COURT Mr. Gibbons, anything from the State
9 before we start back?

10 MR. GIBBONS: Not on this case, Your Honor.

11 THE COURT Ms Stoney?

12 MS STONEY. No, Your Honor

13 END OF PROCEEDINGS FOR THE DAY

14 * * * * *

15 ON TUESDAY, DECEMBER 5, 2006 AT 9:46 A M

16 THE COURT Anything for the record before we
17 begin?

18 MR GIBBONS Not right now.

19 THE COURT: Ma'am, from the defense?

20 MS STONEY No, Your Honor, I believe that all
21 of the fact witnesses are sequestered.

22 THE COURT: I don't know about that.

23 MR GIBBONS Yes, sir. We agreed to that Law
24 enforcement officers are here.

25 THE COURT Very well, bring the jury in

CAIN - DIRECT

1 (Jury enters courtroom at 9 47 a.m.)

2 THE COURT. Good morning. I hope that you had a
3 very pleasant evening and enjoyed your breakfast. All
4 right. You may call your next witness.

5 MR. GIBBONS: The State calls Investigator Cain
6 CHARLES CAIN, having been duly sworn, was
7 examined and testified as follows.

8 THE CLERK: Have a seat in the witness box.
9 State your full name for the Court, spelling your last

10 THE WITNESS: Charles Cain C A I N

11 DIRECT EXAMINATION

12 BY MR. GIBBONS

13 Q. Mr Cain, where are you employed?

14 A Aiken County Sheriff's Office

15 Q And what are your duties there at the sheriff's
16 office?

17 A I'm a criminal investigator.

18 Q. And how long have you been in law enforcement?

19 A Seventeen years.

20 Q Did you receive any specialized training before you
21 became an active deputy or investigator?

22 A Before I became an investigator I was trained in
23 violent crime, armed robberies, burglaries, shooting
24 incidents and basic detective

25 Q Were you serving in the post of investigator back in

CAIN - DIRECT

1 December of last year?

2 A. I was

3 Q Did you have an occasion to be called out in reference
4 to the case we're here about today?

5 A. I was

6 Q. How did you first become aware of this case?

7 A I was paged out earlier that morning and told to
8 respond to the Aiken Hospital where I met with Captain
9 Wallace Owens and Lieutenant Billy Fleury

10 Q. What was going on at the hospital when you got there?

11 A When I was arrived I was informed that someone had
12 been shot at the Elks Club, that they had been transported
13 to the hospital and that they had -- they were deceased.

14 Q What steps did you take when you found out somebody
15 had been shot?

16 A. I was instructed to secure three witnesses who were at
17 the hospital in reference to the shooting. I placed them
18 in my vehicle and I transported them to the sheriff's
19 office for interviews.

20 Q. And was this case actually assigned to you as lead
21 investigator?

22 A No It was originally assigned to Investigator Kevin
23 Liles and I was brought in to directly assist him and
24 support him.

25 Q. Did you go out to the crime scene that night?

CAIN - DIRECT

1 A. As a matter of fact, when I left the hospital I went
2 to the crime scene prior to going to the sheriff's office
3 with the witnesses.

4 Q. And did you basically go to the office and obtain
5 statements from a number of witnesses that night?

6 A. Yes, I did

7 Q. And did you continue your investigation on through the
8 evening hours that day?

9 A. Through the entire day on into the evening

10 Q. And you're familiar with the Elks Club location, you
11 said you went there; correct?

12 A. Yes, I am

13 Q. What is the jurisdiction of that building?

14 A That is in the jurisdiction of Aiken County Sheriff's
15 Office

16 Q So it's within Aiken County?

17 A. Yes, it is.

18 Q Could you kind of tell the jury where it is in the
19 county? Kind of orient them to where this establishment
20 is.

21 A. It is situated pretty much at the intersection of
22 Highway 19 North and Reynolds Pond Road. I would say that
23 maybe two, two and a half miles north of the City limits
24 of Aiken

25 Q. Are you familiar with that building?

CAIN - DIRECT

1 A Yes, I am

2 Q What kind of place is that?

3 A The Elks Club is really just a large aluminum
4 building There is not a whole lot to it. The Elks Club
5 owns it They lease it out. They rent it out to
6 different people who have parties and so forth there, but
7 it's just a big steel, aluminum building in a sand parking
8 lot.

9 Q Based on your interviews, did you at some point start
10 looking for the Defendant in this case?

11 A. Yes, I did.

12 Q And did you come in contact with him?

13 A With?

14 Q. Joshua Forrest?

15 A. Yes, I did

16 Q. Tell us how that happened.

17 A Once we determined that Joshua Forrest was the suspect
18 in the case, once we developed the probable cause to issue
19 arrest warrants, I got in touch with Joshua Forrest's
20 mother and Joshua Forrest's brother, James Forrest. I
21 drove out to their home on Edmund Street in Belvedere and
22 informed them of what was going on. Ms. Forrest stated
23 she would attempt to locate her son and then contact me
24 when she did.

25 Q. And did that happen?

CAIN - DIRECT

1 A. Yes, it did

2 Q How long after this event took place did you get
3 contacted?

4 A. The incident occurred around three o'clock that
5 morning She contacted me at 3:45 that afternoon. A
6 little more than 12 hours

7 Q Eleven or 12 hours later?

8 A. Twelve hours.

9 Q And what did you do after you were contacted?

10 A. After I was contacted I drove to Ascauga Lake Road and
11 Highway 25 in North Augusta and met with Ms. Forrest and
12 with the Defendant, Joshua Forrest

13 Q And was he placed in custody at that time?

14 A Yes, he was

15 Q. Did you personally transport him?

16 A. Yes, I did

17 Q. Where did y'all go?

18 A. We left the Sleep Inn Motel. The parking lot of the
19 Sleep Inn Motel at 25 and Ascauga Lake, and we traveled
20 Ascauga Lake Road back to the sheriff's office

21 Q. And once you got to the sheriff's office what were you
22 intending to do?

23 A. My intention was to interview Mr Forrest.

24 Q. And prior to getting to the sheriff's office, had
25 y'all had conversations about this case --

CAIN - DIRECT

1 A. No, we did not

2 Q -- before?

3 A. No, we did not

4 Q And when you got to the sheriff's department, where
5 did you go?

6 A. I walked upstairs and went to the interview room.

7 Q. And I'm going to show you what's been marked as --
8 strike that. I'm going to show you a sheet. Can you tell
9 me what that is? Do you know what that is?

10 A. That is the standard Aiken County Sheriff's Office
11 Miranda warning form

12 Q. Is that the actual form you used on the date that you
13 interviewed Mr Forrest?

14 A This is the original document.

15 Q And the writing on that document is whose writing?

16 A. It is Joshua Forrest's and myself

17 Q. And has it been changed or altered in any way since
18 you saw it that day?

19 A No, it has not

20 MR. GIBBONS Your Honor, we move the rights form
21 be entered into evidence.

22 THE COURT: Any objection?

23 MS STONEY. No objection

24 THE COURT: State's 19, Miranda form, without
25 objection.

CAIN - DIRECT

1 (Thereupon, State's Exhibit No 19, Miranda form,
2 was received into evidence)

3 BY MR GIBBONS

4 Q Investigator Cain, I want to ask you some questions
5 about the form, if I could What is your procedure when
6 you're getting ready to interview someone at the sheriff's
7 office?

8 A. Before we interview anyone about the specifics of a
9 crime that they're charged with, we make sure that we read
10 them their Miranda forms When I read this form to
11 somebody, I make sure that I position it where they can
12 read it themselves as I read it to them so there is no
13 misunderstanding about what their rights are.

14 Q. And what did you read to Mr. Forrest that day?

15 A I read to him: Before we ask you any questions you
16 must understand your rights. You have the right to remain
17 silent. Anything you say can and will be used against you
18 in a court of law. You have the right to talk to an
19 attorney for advice before we ask you any questions and to
20 have him or her present during questioning If you cannot
21 afford an attorney, the Court will appoint an attorney to
22 represent you without cost if you wish

23 If you decide to answer questions now without an
24 attorney present, you will still have the right to stop
25 answering at any time. You also have the right to stop

CAIN - DIRECT

1 answering at any time until you talk to an attorney

2 I've read this statement of my rights and I understand
3 what my rights are.

4 Q. And what happens at that point?

5 A At that point in time, Mr Forrest initialed beside
6 each statement understanding of his rights and he also
7 signed it indicating that he fully and completely
8 understood what was read to him.

9 Q Does the form continue after that?

10 A. It does. The next segment is the waiver of those
11 rights And that states: I am willing to make a
12 statement and answer questions. I do not want an attorney
13 at this time I understand and know what I am doing. No
14 promises or threats have been made to me and no pressure.
15 or coercion of any kind has been used against me.

16 Q And what did you do after you read that portion?

17 A. He initialed indicating that he did understand what
18 that was and he signed it at the bottom willingly waiving
19 his rights

20 Q. Now you said he was picked up 3 30 in the afternoon,
21 around then?

22 A. I believe my report said 3:45 that afternoon.

23 Q And what time did you go through that form with him?

24 Do you have a time on it?

25 A. The time up here, I began reading it at 16 --

CAIN - DIRECT

1 4:57 p.m. and we ended at 4 59 p.m.

2 Q. And at any time when you were reading that form or any
3 time when you signed that form, did Mr Forrest ever ask
4 for an attorney?

5 A. No, he never did.

6 Q Did the Defendant ever say he didn't want to talk?

7 A. No, he did not.

8 Q Did he appear to have any problem understanding what
9 you were saying?

10 A None whatsoever.

11 Q Did you offer him any benefit if he talked to you?

12 A No, no. I promised him nothing other than I -- I made
13 it clear to Mr Forrest that this form was his rights to
14 use or he could do whatever he wanted with those rights
15 Whichever way he wanted to go was the way I was going to
16 go.

17 Q And so is it your testimony that he signed that form
18 freely and voluntarily?

19 A. Yes, it is.

20 Q. Tell us a little bit about the interview room. How is
21 it set up?

22 A. The interview room is situated on the second floor of
23 the sheriff's office. It is a small room. There is a
24 table in there, three chairs. And there is -- in the
25 upper right hand corner there's a camera that records

CAIN - DIRECT

1 visual and audio of the statements.

2 Q Is that camera disguised in any way?

3 A No, it's visible

4 Q Do people know they're being taped when they're in
5 that room?

6 A Not only can they see they're being taped but we also
7 tell them it is being recorded, audio and video.

8 Q Were the two of y'all alone when this form was filled
9 out?

10 A No. I believe, if I recall correctly Investigator
11 Kevin Liles was inside of the interview room with us.

12 Q Now was this conversation in the interview room, was
13 it captured on video?

14 A The waiving of the Miranda, the application of Miranda
15 when I read that, that was recorded on audio and video.
16 The final part of the interview being when I read the
17 arrest warrants to him, that was also captured on video.
18 The middle segment, the actual interview itself, was not.

19 Q Do you know what happened to that segment?

20 A I do not know I was inside the interview room with
21 Mr. Forrest during the whole time

22 Q Now being inside the interview room, is that where the
23 record button is?

24 A No. The record button is in a room directly behind
25 the interview room with a wall in between it. That is

CAIN - DIRECT

1 where you hit the record button and the stop button on the
2 computer system back there.

3 Q. So this isn't just a VCR with a tape?

4 A. No, it's not.

5 Q. It's a computer that records this?

6 A. That's correct?

7 Q. Is there a remote that you can turn it off and on
8 inside the interview room?

9 A. No. There's no way to do that. There's no
10 electronics in there except for the one camera doing the
11 recording

12 Q. So you have no idea what happened to that middle part?

13 A. I have no idea

14 Q. When do you an interview of that type, did you make
15 personal notes of what's going on?

16 A. I do have a note pad. I do take notes so that I can
17 recall a statement made maybe five, ten, or 15, 20 minutes
18 prior to the ending of the statement. I can just play
19 that back to the person, but, yes, sir, I do take notes as
20 I'm doing an interview

21 Q. And do you usually write up a summary?

22 A. Yes. I complete a summary as soon as possible while
23 it's still fresh in my memory and fresh on my writing

24 Q. And have you -- did you type up a summary of the
25 conversation that you had with Mr. Forrest?

CAIN - DIRECT

1 A. Yes, I did.

2 Q. Did you then turn that over to us as part of your case
3 file?

4 A. Yes, I did That was part of my narrative as to my
5 actions and developments through the investigation

6 Q And when did you type that up?

7 A If the interview happened late that evening, this was
8 typed up the very first thing the next morning when I
9 returned to work.

10 Q Now, you did have a conversation with Mr. Forrest
11 after the tape quit working, after the recorder didn't --
12 when the recorder stopped, you still kept talking to
13 Mr. Forrest?

14 A. Oh, that's correct. I believe it is recorded when I
15 served him -- when I served the arrest warrant on him.

16 Q And he did make certain statements to you; correct?

17 A Yes, he did

18 Q. I'm going to show you --

19 A. I'm sorry. You said while the tape had stopped?

20 Q When the tape stopped, you guys kept talking?

21 A. Of course. We conducted a complete and thorough
22 interview. We had no idea that it was not recording

23 Q. You two were the ones running the interview, correct,
24 you and Mr. Liles?

25 A. That's correct That's correct.

CAIN - DIRECT

1 Q And one of you had started the tape?

2 A Investigator Liles hit the button to start the tape
3 and Investigator Liles was the one who went back, who left
4 the room to stop it when the interview was over

5 Q I'm going to show you a CD marked State's Exhibit 10.
6 Have you viewed what's on that CD?

7 A Yes, I have.

8 Q Is it a fair and accurate representation of what you
9 and Mr. Joshua Forrest talked about as far as the Miranda
10 form goes?

11 A. It is

12 Q Has that portion been altered or changed in any way?

13 A No, it has not.

14 MR. GIBBONS Your Honor, at this time we would
15 move State's 10 into evidence and ask to publish it.

16 THE COURT. Any objection?

17 MS. STONEY: No objection

18 THE COURT. That's the video?

19 MR GIBBONS: Yes, sir.

20 THE COURT Number Ten is in, the video, without
21 objection

22 (Thereupon State's Exhibit No 10, DVD of
23 interview, was received into evidence and played for the
24 jury)

25 BY MR. GIBBONS

CAIN - DIRECT

1 Q. I believe that's the end of what was taped that day?

2 A. Yes, it is.

3 Q Officer Cain, can you tell us what conversation went
4 on during the portion of the interview that did not get
5 recorded?

6 A When I interviewed Mr. Forrest, he reported to me that
7 he did arrive at the incident location. A woman named
8 Chantille Epps had drove him up there and dropped him
9 off. That he had consumed a large quantity of alcohol
10 that had intoxicated him

11 And he stated while inside the Elks Club his
12 ex-girlfriend, I believe it's Tamika Bussey, his
13 ex-girlfriend who had formed a relationship with Mario
14 Reddish during his, Joshua's, incarceration, she begun a
15 verbal argument with him over his flirtations with a woman
16 by the name of Monique

17 Mr Forrest stated that Bussey had taken his ball cap
18 and then she relocated with a group of about 12 males
19 towards the rear of the Elks Club Mr. Forrest stated
20 that he approached her to retrieve his cap whereas
21 Ms Bussey threw a drink on him and slapped his face
22 several times.

23 Mr Forrest reported he ignored Bussey's assault and
24 after obtaining his cap the 12 males began to shove him
25 and he left the interior of the Elks Club, relocating to

CAIN - DIRECT

1 the rear driver door of a white-in-color Lincoln operated
2 by his cousin, James Forrest

3 Mr Forrest reported he opened the door to enter and
4 was unable to enter due to the driver's seat being fully
5 reclined, and upon relocating to the front of the vehicle
6 observed Bussey, Ms. Bussey and the same group of males
7 approaching him.

8 Mr. Forrest reported Bussey hit his face several times
9 and he grabbed her throat and pushed her away
10 Mr. Forrest reported Reddish then approached him and
11 punched him in the face and a physical fight erupted
12 whereas Reddish again struck him in the jaw as the fight
13 relocated to the front region of the Lincoln car.

14 At that time Mr Forrest displayed to me apparent
15 visible injury to his inner lip area. Mr Forrest at that
16 time reported and demonstrated to me during the fight that
17 Reddish secured him in a frontal bear hug, gripping both
18 of his, Mario Reddish's arms, around his, Mr. Forrest's,
19 arms and torso.

20 Mr Forrest stated upon trying to break free from the
21 bear hug he heard apparent gunshots and began to back away
22 from Reddish, from Mario Reddish who ripped his, Joshua
23 Forrest's, shirt off while falling forward to the ground.

24 Mr Forrest reported of running to and entering the
25 Lincoln with James Forrest and Joseph Gartrell while

CAIN - DIRECT

1 hearing Ms. Bussey state, shoot that N.

2 Mr Forrest reported while departing the incident
3 location, an unknown black male ran beside the Lincoln
4 firing a pistol. Mr. Forrest reported that soon arriving
5 to the Waffle House located at Highway 19 and I-20 in
6 Aiken, South Carolina where he accepted ride from a Myron
7 en route to his, Joshua's, girlfriend's, Marcy Coleman's
8 residence located in Apple Valley Subdivision in Augusta,
9 Georgia

10 Finally Mr Forrest reported of overhearing
11 Ms. Coleman's mother state that he was wanted by the
12 police and of speaking with his mother later that day who
13 coordinated him surrendering himself to law enforcement

14 Q Now, in your narrative you indicated that he
15 demonstrated?

16 A That's correct

17 Q. Could you, Your Honor, with the Court's permission,
18 could you come down and tell me what you mean by that and
19 demonstrate? Show me

20 A (Complying) During the interview he stated to me
21 that Mario Reddish had walked up to him, wrapped his arms
22 around him in a fight So I asked him, I said, okay, I'll
23 be you, Joshua, you be Mario. What happened.

24 Q All right. Let me act your part.

25 A. Oh, okay At that point in time Joshua approached me

CAIN - DIRECT

1 as he was acting out Mario's actions that night, that
2 morning Wrapped his arms around in a frontal bear hug,
3 like this, and stated that he heard shots and then when he
4 heard the shots he began to back away and that's when
5 Mario fell into him or fell down in front of him.

6 Q. So he indicated whose arms were holding whose arms
7 down?

8 A Mario's arms were around his, Joshua's.

9 Q He indicated both his arms were at his side?

10 A That's correct That's correct.

11 Q And they broke apart as Reddish fell to the ground
12 Is that what you're saying?

13 A Shortly -- according to Mr Forrest, shortly after he
14 heard the gunshots he backed away from Mario Reddish who
15 was falling forward to the ground, ripping his shirt off
16 while he was doing it

17 Q. Now the person that was giving you this statement, is
18 he in the courtroom here today?

19 A Yes, he is.

20 Q. Could you please point him and and tell us what he's
21 wearing?

22 A The Defendant, Joshua Forrest I believe it is a
23 black pin stripe suit with a white shirt

24 Q Now, after he indicated and demonstrated what the
25 positioning was, did you talk about that with him?

CAIN - DIRECT

1 A. For a moment, yes, I asked him. I indicated to him
2 that the victim, Mario Reddish, had been shot twice in the
3 front torso of his body And I asked Mr. Forrest how
4 could it be that Mario was shot twice in the front torso
5 while in, while in body contact with him face to face
6 Front torso to front torso, how could Mario have been shot
7 in the front and Mr Forrest not be shot That was my
8 question to him at that time I couldn't understand how
9 that could happen

10 Q. Did he give you an answer?

11 A He said it was God's will

12 Q. And did that pretty much end the interview at that
13 point?

14 A Yes, it did I think shortly after that I read the
15 warrants to him and transported him to the Aiken County
16 Jail

17 MR GIBBONS. Your Honor, by agreement, I would
18 like to move State's Eight and Nine into evidence

19 THE COURT. What are they, please?

20 MR. GIBBONS Photographs of the Defendant.

21 (Thereupon, State's Exhibit No. 8 and No 9,
22 photographs, were received into evidence)

23 BY MR GIBBONS

24 Q I'm going to show you State's Exhibit Eight. Are you
25 familiar with that picture, Investigator Cain?

CAIN - DIRECT

1 A No, I'm not familiar. I'm familiar with this
2 photograph

3 THE COURT Which is Nine

4 BY MR. GIBBONS:

5 Q Tell me what Number Nine is

6 A Number Nine is a picture of Joshua Forrest's inner lip
7 which shows a slight, a laceration

8 Q. Is that the same place that he showed you during the
9 interview that he had been hurt?

10 A. Yes, it is. As soon as he mentioned that he had been
11 hit in the mouth, I did ask him to show me. When he did
12 display his lip, I did see the visible injury to his lip

13 Q. And as I was asking you, you did interviews in this
14 case and talked to witnesses?

15 A. Yes, I did

16 Q. And you did an investigation?

17 A. Yes, I did.

18 Q Were you able to come up with some rough figure of how
19 big a party this was that night?

20 A To my understanding there was a lot of people there
21 I cannot give you an exact number count, but to my
22 impression from interviewing people, the whole entire Elks
23 Club was full of people to include people in the parking
24 lot There was a lot of people there that night

25 Q Did you have many people come forward and give you

CAIN - CROSS

1 statements or volunteer that they knew something about the
2 case?

3 A The only people that I spoke with were the several
4 people that -- the three people that were at the hospital
5 that night We did not get a whole lot of people just
6 rushing to the office to give us interviews that this is
7 what I saw, this is what I saw.

8 MR GIBBONS. Thank you, Investigator Cain
9 Please answer any questions that Ms. Stoney may have

10 THE COURT: Ms Stoney?

11 CROSS-EXAMINATION

12 BY MS. STONEY.

13 Q Investigator Cain, you said that my client told you
14 that it was God's will that he had not been shot. Could
15 he have said God is good?

16 A Could he have said what?

17 Q God is good?

18 A He may have said that, but I'm pretty certain it was
19 God's will.

20 Q. And was he cooperative?

21 A Yes, ma'am

22 Q. And, did he give you any trouble at all?

23 A. No, ma'am None whatsoever..

24 Q And when you were asking him questions, was what he
25 was telling you consistent?

CAIN - CROSS

1 A. Some of it was The part about his lip being busted,
2 he backed that visible injury He did tell me that he was
3 at the Elks Club, that he had consumed alcohol. He told
4 me that there had been -- that he had been involved in a
5 confrontation, that he did try walk away from it. And I
6 believe that if I recall my notes right, that was
7 consistent with what other people had said, that there had
8 been a confrontation inside the Elks Club leading to the
9 parking lot.

10 Q. So, did he ever tell you anything that was
11 inconsistent with his own version of the story?

12 A Could you say that again, please?

13 Q. Did he ever tell you anything that was inconsistent
14 with his own version of the story, make any inconsistent
15 statements to you?

16 A. I don't think understand your question

17 Q. When he was telling what you was happening --

18 A. Yes, ma'am

19 Q -- did he ever say something and then retract it and
20 turn around and say something else?

21 A. Oh, from his own statement?

22 Q From his own statement

23 A. No, ma'am. No, ma'am The statement he gave me was
24 consistent each time he told me

25 Q. What was he wearing?

1 A. I can't recall right now. He had on civilian
2 clothes. I can't recall what they were.

3 Q Were any of his clothes taken from him?

4 A. Yes, ma'am. I believe they were. They were collected
5 at the Alken Detention Center. If I'm right, they were
6 collected and he was placed into an orange jump suit.

7 Q Did you ever see any blood on his clothes when he was
8 in the interview room?

9 A Yes. Yes, there was. There appeared to be apparent
10 bloodstains on the front pant leg of his trousers.

11 Q And was that, was the blood tested? Do you know if it
12 was sent off to be tested?

13 A It was sent off to be tested. I believe the DNA
14 analysis at SLED, if I'm correct, I have not seen any
15 paperwork on that. I have not seen any myself, but I do
16 not believe -- I don't know whose blood that was, to tell
17 you the truth. I don't have that information in front of
18 me.

19 Q. You don't know the results of any tests?

20 A No, ma'am. I don't.

21 MS. STONEY. I have no more questions, Your
22 Honor.

23 THE COURT: Redirect, if any?

24 MR GIBBONS: No, Your Honor.

25 THE COURT: All right. You may step down. Call

ROBERTS - DIRECT

1 your next witness

2 MR GIBBONS: Your Honor, the State would call
3 Agent Roberts

4 JOHN ROBERTS, having been duly sworn, was
5 examined and testified as follows

6 THE CLERK: Please have a seat on witness box
7 State your full name for the Court, spelling your last

8 THE WITNESS: John Roberts, R. O. B E R. T S.

9 DIRECT EXAMINATION

10 BY MR GIBBONS:

11 Q Where are you employed, Mr. Roberts?

12 A I'm employed with the South Carolina Law Enforcement
13 Division also known as SLED

14 Q. And what are your duties at SLED?

15 A I'm an analyst in the trace evidence department
16 currently trained in gunshot residue and bullet hole
17 analysis.

18 Q What does trace evidence mean?

19 A Trace evidence is the analysis of evidence that you
20 can't see without a microscope usually. In our trace
21 section we analysis arson, gunshot residue, bullet hole
22 analysis, paint, fibers, glass, explosives and trace
23 evidence which consists of duct tape and bank dye
24 analysis.

25 Q And have you received specialized training and classes

ROBERTS - DIRECT

1 in doing this work?

2 A. Yes, sir I received specialized training at SLED in
3 gunshot residue and analysis and bullet hole analysis

4 Q Is there a certification level that you received
5 there?

6 A Yes, sir. I studied under my lieutenant for a number
7 of months working his cases, helping him write up his
8 cases and doing the analysis under his supervision until I
9 was given a proficiency test and a mock court which I was
10 given a proficiency test and a mock court which I had to
11 pass both of them to receive my own cases And I have
12 been taking my own cases since February of this year

13 Q And have you been qualified in the courts of this
14 state as an expert in the field of trace analysis?

15 A. In the field of gunshot residue analysis; yes, sir

16 MR. GIBBONS Thank you. Your Honor, we would
17 ask that he be able to testify as an expert witness in the
18 field of gunshot residue analysis

19 THE COURT Ma'am?

20 MS. STONEY: No objection

21 THE COURT Without objection. He'll be
22 qualified as an expert and allowed to give an opinion.

23 BY MR GIBBONS:

24 Q Sir, can you explain to us a little bit exactly what
25 gunshot residue analysis is and where it comes from?

ROBERTS - DIRECT

1 A. Yes Gunshot residue is the collection of particles
2 that are ejected out of a firearm when it's fired When
3 the firing pin strikes the primer cap of a cartridge, it
4 sets off the primer mixture. The primer mixture is
5 composed of several chemicals.

6 The ones that we're most interested in for GSR
7 analysis is barium, ammonium and lead These particles
8 are ejected They can come out of a muzzle, they can come
9 out of a cap of a revolver. The space where the trigger
10 comes out of the frame for the weapon. And also out of
11 the ejector port for a semiautomatic weapon

12 These particles are vaporized when they come out of a
13 weapon They hit the cool air. They cool into smooth
14 round particles and they settle on objects in the
15 immediate vicinity of the weapon

16 If you're in front of the weapon, say, six feet or
17 closer, you're going to get the stuff on your hands, on
18 your clothes. If you're firing a weapon, it's more than
19 likely you're going to get it on your hands as well.

20 Q And how is it collected?

21 A We issue kits to agencies around the state that have
22 two parts to them They have cotton swabs with five-
23 percent nitric acids, and they also have particle lifts.

24 When an officer wants to take a gunshot residue kit off of
25 a subject, he takes the particle lift which is a double-

ROBERTS - DIRECT

1 sided cartridge with sticky tape on it.

2 He takes the palm of the left hand or the right hand,
3 whichever one he wants to start with, and he applies the
4 stuff all over the hands, the fingers, the palms, puts the
5 stuff away, takes the next one up which is the left hand,
6 or the back of the left hand, applies it to the back of
7 the left hand. Repeats it with the right.

8 When he's done with the particle lifts, he takes the
9 cotton swabs out. The cotton swabs are treated with
10 nitric acid. They're applied to the same way, apply it to
11 the back of one hand, the palm of the one hand, then you
12 take the next two swabs and apply it to the palm of one
13 hand and the back of the other hand.

14 So in all you have eight samples, two from each hand.

15 Q. And those are sent to your lab?

16 A. Yes, they are.

17 Q And then you examine them to see if there's any of
18 those substances on them?

19 A Yes, sir.

20 Q. Do you ever do any kind of firing tests or know the
21 difference between what one gun will put out and what
22 another gun will put out?

23 A. We've done some studies In general, bigger guns will
24 put out more gunshot residue, just because they're bigger.

25 Q. Were you provided with samples in the case we're here

ROBERTS - DIRECT

1 about today?

2 A Yes, sir.

3 Q. How many did you receive?

4 A. I received a gunshot residue kit from the victim,
5 Mario Reddish, and a gunshot residue kit from the suspect,
6 Joshua Forrest.

7 Q. Did you test both of those kits?

8 A No. I only tested one.

9 Q Can you explain that, please?

10 A I tested the kit from the victim, Mario Reddish, but I
11 did not test the kit from the suspect, Joshua Forrest
12 because it was taken more than six hours after the
13 suspected shooting had happened. Our protocol states that
14 if we receive a kit that's been taken more than six hours
15 after the suspected shooting, we won't analyze the lifts
16 because natural processes of the human body will absorb
17 this material within six hours.

18 Q And you did take it from the victim, though, correct?

19 A Yes.

20 Q Why were you able to do this as opposed to
21 Mr. Forrest's?

22 A His kit was taken within six hours. If you'll let me
23 check, I believe within an hour to an hour and a half,
24 more or less.

25 Q. So his was fresh enough to use?

ROBERTS - CROSS

1 A. Yes

2 Q. And say you get one that's eight hours?

3 A. We don't do it

4 Q. So this one was collected over 12 hours later, you
5 don't test it, correct?

6 A. That's correct

7 Q. And is that the standard within your field?

8 A. It's our protocol. Other agencies actually do it in
9 less time. They won't take it if it's more than four
10 Some people don't take it if it's more than two.

11 Q. And if you had tested it anyway, would you be able to
12 testify about it?

13 A. No, sir, because we -- there's -- without a direct
14 order from somebody way up on the chain, we wouldn't do
15 it.

16 Q. Now, are there some ways -- say I can fire a gun and
17 15 minutes later I could have a negative test?

18 A. Yes, sir. You could wash your hands, you would wipe
19 your hands on basically anything. These particles have
20 the consistency of flour. If you've ever dusted your
21 hands with flour while you're cooking, it comes off
22 easily. All you got to do is wipe your hands on something
23 and it's gone.

24 Q. So it's a test that you use when you can, correct?

25 A. Yes.

ROBERSON - DIRECT

1 MR GIBBONS Answer any questions that

2 Ms Stoney has

3 CROSS-EXAMINATION

4 BY MS STONEY

5 Q. I just have one question. You said there was some way
6 that you could get the gunshot residue off your finger in
7 15 minutes?

8 A. Yes.

9 Q. Is there any way that it could still be on there 12
10 hours later?

11 A. It is possible that it could but we wouldn't analyze
12 it. We would not analyze a kit over six hours.

13 MS STONEY. Thank you

14 THE COURT Any additional questions?

15 REDIRECT EXAMINATION

16 BY MR. GIBBONS

17 Q. Did you find anything on the victim's?

18 A No, sir

19 THE COURT You may step down. Next witness

20 MR. GIBBONS. Call Tanika Roberson. Your Honor,
21 could we excuse Agent Roberts, whenever he wants to go?

22 MS. STONEY: Yes, sir

23 THE COURT: Without objection.

24 TANIKA ROBERSON, having been duly sworn, was
25 examined and testified as follows:

ROBERSON - DIRECT

1 THE CLERK: Have a seat in the witness box
2 State your full name for the Court, spelling your last

3 THE WITNESS In here?

4 MR GIBBONS Yes, ma'am

5 THE COURT: Your name, please? Your name?

6 THE WITNESS: Tanika Roberson. T A. N. I K. A
7 R O. B E. R S O N.

8 DIRECT EXAMINATION

9 BY MR GIBBONS:

10 Q. Is that the only last name you've used?

11 A. Yes.

12 Q. Are you from here in Aiken?

13 A. Yes, sir.

14 Q. And you look a little uncomfortable today.

15 A. Yes, sir

16 Q What's going on?

17 A. I'm okay

18 Q. Al right Are you going to have a baby pretty soon?

19 A. Yes, sir

20 Q If something happens, you tell us Okay? Ma'am, are
21 you familiar with Joshua Forrest?

22 A Yes, sir

23 Q. How long have you known Joshua Forrest?

24 A. Since I've been little

25 THE COURT: Hold on one second.

ROBERSON - DIRECT

1 THE BAILIFF: She needs a break

2 THE COURT I understand. Let's everybody take a
3 break Let her go first. Y'all don't discuss the case in
4 the jury room. We'll take a quick break.

5 (Jury exits courtroom at 10:30 a m.)

6 THE COURT: We'll stand at ease for just a few
7 minutes.

8 (Jury enters courtroom at 10:38 a.m.)

9 THE COURT: You may proceed.

10 BY MR. GIBBONS.

11 Q. Ms. Roberson, where were you on December 4 of last
12 year in the evening hours?

13 A About what time?

14 Q. Just tell me what you doing from nine o'clock on

15 A We was -- oh, I was in Belagio's (phonetically). A
16 little club called Belagio's Left there about two in the
17 morning and went to the Elks Club after that.

18 Q. Were you alone that night?

19 A. No, sir.

20 Q. Who was with you?

21 A. Me, Tamika Campbell, Nicole Funchez (phonetically) and
22 Timothy Johnson.

23 Q So you're Tanika You're with Tamika?

24 A Tamika. Right.

25 Q. And what time did you get to the Elks Club?

ROBERSON - DIRECT

1 A. We got there about 2:15, 2 30, something like that

2 Q And did you know there was something going on out
3 there that night?

4 A No, sir We just went

5 Q. Did you know there was a party?

6 A. Just go to the club, after spot. That's basically
7 what it was, after you leave one club you go to another
8 club.

9 Q. And what was going on when y'all got there?

10 A We was just -- when me and Tamika got there we was
11 just -- well, when I walked in Tamika was, Tamika walked
12 in behind me and she was just starting, she was just
13 standing there at first. And then I went and got me a
14 drink She stood up there and that's when Joshua walked
15 in

16 Q. Let's stop for a minute. How many people were at the
17 club?

18 A It was full It was packed

19 Q. Twenty?

20 A More than 20

21 Q More than 50?

22 A Yes, sir I would say about, about 50 to 100 at the
23 most

24 Q And people were drinking?

25 A. Yes, sir

ROBERSON - DIRECT

1 Q. Was there music going on?

2 A. Yes, sir

3 Q. Was it loud?

4 A. Yes, sir

5 Q And when did you first see the Defendant in this case
6 there that night?

7 A. When he first walked in I had spoke to him. And, well
8 I called him Junior I was, like, hey Junior And that's
9 when Tamika was like, don't speak to him. I told you he
10 ain't nothing but a con artist.

11 Q How does she know him?

12 A Sir?

13 Q How does she know Joshua?

14 A I guess they was -- I would say they was, they had a
15 relationship and they had broke up

16 Q. All right So they ran into each other at the club?

17 A Yes, sir.

18 Q What happened when that took place?

19 A. After she told me don't talk to him because he wasn't
20 nothing but a con artist, I ain't seen him no more And
21 then finally, I would say about 20 minutes later he came
22 back to the table where I was sitting at No, I got up
23 and I asked Tamika, I said, what's going on. I just heard
24 her kept saying, leave MF-ing B's, don't know me. They
25 make this country girl stump a mud hole, and stuff like

ROBERSON - DIRECT

1 that. And she was just carrying on.

2 And I got up and I walk over to Tamika and I said,
3 Tamika, who are you talking about She was like just take
4 me to go get my car Just take me to go get my car. I
5 was like, well I'll take you to go get your car She was
6 like, no, I don't want you to take me to go get my car and
7 then she was telling the girl, Nicole Funchez, to take her
8 to go get her car.

9 Q. Where was her car?

10 A. He car was parked at my Aunt Janet house in Shady
11 Acres Trailer park

12 Q. So she wanted to go back and get -- she wanted to
13 leave and get her car?

14 A. Yes, sir Because she had seen me speak to him.

15 Q And that upset her?

16 A. Yes, sir

17 Q. Okay

18 A. And I was like, well, I ain't got nothing to do with
19 what's going on between you and him. He ain't never did
20 nothing to me, like that She was like, so still don't be
21 talking to him

22 So then after that I was like, well, I'll take you to
23 get your car She was like, I don't want you to take me
24 to get my car. Just take me to get my car. So I just
25 left it all alone and went and sat down in the back at the

ROBERSON - DIRECT

1 table. He came back there where I was Him -- me and him
2 was talking

3 Q Who?

4 A Him by himself, talking.

5 Q What were you talking about?

6 A. Joshua. He came back there at the table I was at. We
7 was just sitting there talking He said, Tanika, are you
8 going up to get you a drink. I was like, yeah. And he
9 was, like, when you get you one, could you get me one I
10 was, like, yeah, ain't no problem. I got me and him a
11 drink.

12 So he sat back there at the table. He was just
13 sitting listening to the music. He was listening to the
14 music that was playing in the club.

15 Q. All right Had y'all been drinking that night?

16 A Yes, sir.

17 Q You and Tamika?

18 A Yes, sir.

19 Q. And did you see Joshua drinking that night?

20 A The only time I seen him drink was when I went and got
21 him that drink.

22 Q. All right. Continuing on from where you were. You
23 were sitting with Joshua.

24 A. That's when he got up. He walked off. I don't know
25 where he went, but then I seen him come back towards the

ROBERSON - DIRECT

1 bar He pulled a chair out from the bar and he had a hat
2 on, baseball cap on. Tamika went over to him. Grabbed
3 the cap off his head That's when he yelled, give me my
4 hat.

5 She was like, this ain't your hat I paid for this
6 hat. This is my hat And they were tugging on the hat.
7 I was, like -- well, I call him Junior. I was like,
8 Junior, man, just give her the hat He let the hat go.
9 So she grabbed him by his shirt, threw liquor in his
10 face

11 And that's when he pushed her head up against the
12 wall He was, like, go ahead on. So he walked out the
13 club So --

14 Q All right She and him got into a little pushing
15 match, is that what you're saying?

16 A. Yes, sir.

17 Q And then he left out the club?

18 A. Yes, sir.

19 Q. What did she do?

20 A She -- we walked behind -- she went walking behind
21 him, and I went walking behind her.

22 Q. Anybody else go with y'all?

23 A. No, sir

24 Q. What happened then?

25 A. So then she was walking behind him. Started

ROBERSON - DIRECT

1 hollering, give me my clothes I brought you, give me my
2 stuff I brought you. And he was just kept on walking He
3 was, like Tamika, go ahead, Tamika go ahead As he was
4 getting in the car that's when I seen Jonathan hit him

5 Q. Jonathan?

6 A. Hit Junior.

7 Q. Jonathan who?

8 A. Jonathan Thomas hit Joshua Forrest.

9 Q All right. Let me stop you there for a minute. I
10 don't want to get this confused. How many people were you
11 and Tamika with that night?

12 A When we got to the club?

13 Q Yes, ma'am

14 A. When we got to the club it wasn't nothing but me,
15 Tamika, Timothy, we call him Pull and Nicole Funchez, four
16 of us We all rode in my rental car. I had rented a car
17 that weekend

18 Q. When Joshua left out the door and y'all followed him
19 after him, how many of y'all followed out the door?

20 A Two, me and Tamika.

21 Q. The other people stayed inside? And then you
22 mentioned somebody named Jonathan

23 A They came out after -- okay. After me and Tamika got
24 out, I would say like five minutes later that's when
25 Jonathan and them, everybody just started coming out the

ROBERSON - DIRECT

1 door Because they heard her -- they heard Tamika yelling
2 and screaming saying give her her stuff

3 Q How many people came up right next to Tamika?

4 A After we got out the club?

5 Q Yes, ma'am.

6 A It was about ten, 15 people. It was just everybody
7 just after, you know, she started yelling and screaming
8 everybody just start coming out the club.

9 Q. Were they out there to help her, do you think or were
10 they just out there seeing what was going on?

11 A. They were just out there seeing what was going on.

12 Q. So they weren't people with you two?

13 A. No, sir

14 Q. All right So the crowd came outside Tamika and the
15 Defendant were arguing. What happened next, do you say?

16 A. Joshua was getting there. He was on the driver's side
17 of the car. He was -- he had one foot in the car and the
18 back door was open and he was going to get in the car.

19 Q. All right. Whose car?

20 A It was a white Lincoln It was driven by James
21 Forrest. That's his cousin

22 Q. And you say the Defendant was trying to get into a
23 white Lincoln?

24 A Yes, sir.

25 Q. Was anybody else there with him?

ROBERSON - DIRECT

1 A. The only people that was in the -- at the car was
2 James Forrest and Joseph Gartrell

3 Q. Where was James Forrest?

4 A He was in the driver's side of the car He was on the
5 driver's side of the car Joe was on the passenger side
6 of the car. Joshua was on the backside of the driver's
7 side of the car

8 Q Were they all three outside the cars?

9 A. Yes, sir.

10 Q. Standing out?

11 A Yes, sir.

12 Q. Doors open? Doors closed?

13 A I remember Joshua's door being open. I don't know if
14 the other two doors was open I don't remember that

15 Q Tamika, was she on the same side of the car as --

16 A. She was standing -- he was like standing, when he was
17 standing up he was -- she was standing beside me almost
18 like.

19 Q And where was y'all's car?

20 A. Parked on -- well, not in the front of the club where
21 the door is at, but on the side. On the side of the
22 building, but it was where, basically in the front of the
23 vehicle -- the car Joshua was getting in.

24 Q So y'all's car was right next to his, pretty close?

25 A. Yes, sir.

ROBERSON - DIRECT

1 Q And to get to your car you had to go towards his?

2 A Yes, sir

3 Q And was the car in between her and him, was she on one
4 side and he was on the other or were they both --

5 A. No. He was standing, like, it's like a little dirt
6 path or whatever He was standing right there in the
7 little dirt path, the little roadway.

8 Q. And you say he was standing in the doorway of the car?

9 A. Yes, sir

10 Q. In back of the driver's seat?

11 A. Yes, sir.

12 Q Front driver's seat?

13 A Yes, sir.

14 Q. What happened next?

15 A That's when I seen Jonathan come out on the other side
16 and he backed up out of the car. He was like y'all F
17 this Joshua right now, F this, trying to back up off
18 them. And then that's when I seen Mario come around and
19 Joshua --

20 Q. I thought you said something about a firearm.

21 A. Yeah, and that's when I heard the gunshots and that's
22 when I heard Joshua said y'all F niggers better back up
23 off me.

24 Q Did you see a gun?

25 A. No, sir.

ROBERSON - DIRECT

1 Q You just heard a shot?

2 A Yes, sir

3 Q And what happened then?

4 A And that's when I seen Mario come on outside. He was
5 trying to break them up He was trying to stop Joshua
6 from getting into it. And that's when Joshua -- Mario
7 swung at Joshua and Joshua wrapped up with Mario and I
8 heard a gunshot and I seen Mario fall and that's when I
9 ran away from there

10 Q Were they still wrapped up when you saw Mario fall?

11 A No, sir. After the gunshots Joshua jumped in the
12 white Lincoln and it sped away

13 Q Did you hear any more shots after he jumped in the
14 Lincoln?

15 A No, sir.

16 Q Not from anywhere?

17 A No, sir

18 Q How many total shots do you think you heard?

19 A Four

20 Q Did you ever see a gun that night?

21 A No, sir.

22 Q Did you ever see him get anything out of the car?

23 A No, sir

24 Q Do you remember giving a statement to the officers
25 regarding this matter?

ROBERSON - DIRECT

1 A. Yes, sir.

2 Q Do you remember telling them about a gun?

3 A I mean, I don't remember Probably did

4 Q You probably did?

5 A Yes, sir

6 Q. Did you see a gun that night?

7 A. No, sir Not that I remember, no

8 Q I'm going to show you some notes from your statement
9 and see if that refreshes your recollection. Start right
10 there and read that through, please.

11 A. Read it out loud?

12 THE COURT Read it to yourself.

13 BY MR GIBBONS:

14 Q. See if that reminds you

15 A. (Complying)

16 Q. Does that refresh your memory any?

17 A. Yes, sir

18 Q Do you remember seeing a weapon that night?

19 A. Yes. I do now

20 Q Would you please tell the jury?

21 A When Joseph Gartrell was standing on the passenger
22 side, it was a black -- it was a black gun on the -- in
23 the seat of the car.

24 Q Do you remember seeing Joshua with the gun?

25 A. I didn't never see Joseph give Joshua a gun.

ROBERSON - DIRECT

1 Q Did you ever see Joshua with a gun?

2 A. No, sir.

3 Q All right. I'm going to show you the statement that
4 you gave December 4th Do you think your own written
5 statement would refresh your memory?

6 THE COURT Let her read it, and see if it does.

7 THE WITNESS: (Complying)

8 THE COURT All right. All right Ladies on the
9 back row, if y'all want to talk you need to leave Thank
10 you.

11 BY MR GIBBONS

12 Q. Do you recall giving that statement, ma'am?

13 A. Yes, sir.

14 Q. I ask you again Did you mention in that statement --
15 you admit or deny to the officers that you saw him with a
16 gun?

17 A. No, I didn't tell them I seen him with the gun. I
18 told him I seen the gun on the seat

19 Q Do you admit or deny saying you heard him say, get
20 back from me?

21 A. He said, y'all F'ing Niggers better back off from me
22 That's what he said.

23 Q. And went to the left side of the vehicle and pulled
24 out a black object?

25 A. That's -- no. Joseph Gartrell was standing on the

ROBERSON - DIRECT

1 passenger side with the door open and the gun was on the
2 seat I never did say I seen J give Joshua no gun

3 Q Now, I didn't ask you that, ma'am Do you admit or
4 deny telling them that you saw him reach down and pick up
5 a black object and shoot up in the air?

6 A No, I didn't.

7 Q. You deny saying that?

8 A. Uh-huh.

9 Q. Is this your statement you gave on December 4th, 2005?

10 A. Yes, but I don't remember saying I seen him get no
11 gun

12 Q. Whose handwriting is that, ma'am?

13 A. This is my handwriting.

14 Q. Did you someone tell you what to write or did you just
15 write that yourself?

16 A. I wrote it myself.

17 Q. Are you telling us that statement is not true?

18 A I mean, if I wrote it Like I said, we was drunk so I
19 don't, I don't remember this But I don't remember Joseph
20 giving -- I don't remember Joseph giving him, getting no
21 gun out no car

22 Q. Ma'am, could you read that statement to the jury,
23 please?

24 A. I, Tanika Roberson, was coming home from Horse Shoe
25 Bend Road going to a club called Belajio's Belajio's

ROBERSON - DIRECT

1 closed at two p.m Then Tamika Campbell and Nicole
2 Funchez left the club and went to the Elks Club. When we
3 arrived at Elks, Tamika Campbell said, my left eye is
4 jumping, something is going to happen.

5 Then about 1.15, two o'clock the club was over and
6 Tamika came over to the table where I was standing by and
7 Tamika Campbell and Joshua Forrest was arguing over a
8 baseball cap So Tamika Campbell was yelling at Joshua
9 Forrest, take my clothes and shoes I bought you and then
10 he ended up out the door.

11 Me, Tamika Campbell, Nicole Funchez and Jonathan
12 Thomas and Mario Reddish and Joshua Forrest went to a --
13 wait a minute. Okay. A black or blue box Chevy -- that's
14 what kind of car I thought it was at first. Something.
15 And oh, wait a minute. Something. And Forrest went --
16 oh, wait a minute. And said y'all M F ers get back from
17 me. Then Joshua Forrest went on the left side of the
18 vehicle and pulled out a black object and shot up in the
19 air.

20 Then that's when Jonathan Thomas said stop. Then
21 that's when Mario stood up in the front of Joshua Forrest
22 and said Junior, man, don't do -- just leave It ain't
23 worth it.

24 Then I ran in the front of my car and that's when I
25 just heard everybody from the club screaming and hollering

ROBERSON - CROSS

1 Mario just got shot four times. And I met Tamika Campbell
2 and Chris Roper at the hospital with Mario and something
3 -- and something.

4 Something, know what was going on. Joshua Forrest
5 said to us arguing. I don't know -- of people. Me,
6 Tamika Campbell and Mario Reddish and Jonathan Thomas and
7 Nicole Funchez and some others, MF'ers better back up away
8 from me and then Joshua Forrest left in the car with James
9 Forrest little cousin and Joseph Gartrell a/k/a known as J
10 and sped off going back towards Highway 19

11 Half of this I couldn't hardly read it.

12 Q. And you gave that statement the morning after this
13 happened?

14 A. Yes, sir.

15 Q. Now the people that were at that party that you talked
16 to, do you know if Jonathan and Joshua and Mario, all of
17 these guys, do you know if they know each other?

18 A. Do they know Joshua?

19 Q. Do they know each other?

20 A. Yes, sir.

21 Q. How do you know that?

22 A. Because I used to see them together. Well, around
23 each other not together. They used to be around each
24 other.

25 Q. And have they been friends before?

ROBERSON - CROSS

1 A. Yes, sir.

2 Q. All of them?

3 A. Yes, sir.

4 MR GIBBONS. Answer any questions that

5 Ms. Stoney has

6 THE COURT Cross, Ms. Stoney.

7 CROSS-EXAMINATION

8 BY MS. STONEY:

9 Q Ms. Roberson, have you ever dated my client?

10 A. No, ma'am.

11 Q. Have you ever dated the victim, Mario Reddish?

12 A. Yes, ma'am.

13 Q. And were you dating him at the time that he was shot?

14 A. No, ma'am

15 Q. So you were an ex-girlfriend of his?

16 A. Yes, ma'am.

17 Q And Tamika Campbell, is that the same person as Tamika
18 Bussey?

19 A. Yes, ma'am

20 Q. So when we're saying Tamika Bussey or Campbell, it's
21 all the same person?

22 A Yes, ma'am.

23 Q. The statement that you read to the jury just a few

24 minutes ago, do you remember what type of car you said he

25 -- Joshua had walked to?

ROBERSON - CROSS

1 A. At first I said a blue or black box Chevy.

2 Q. And when you were testifying before you said a white
3 Lincoln?

4 A Yes, ma'am.

5 Q. Which was it, a black car or a white car?

6 A. It was a white Lincoln.

7 Q. When you were at the club, is the parking lot lit in
8 any way?

9 A Yes, ma'am. It's streetlights out there

10 Q. Okay. And you weren't able to tell whether or not it
11 was a black car or a white car at the time?

12 A. I just was -- we was just -- at first, we was standing
13 like a distance away I couldn't see And then when we
14 moved up, that's when I seen that it was a white four-door
15 Lincoln

16 Q Okay. But you didn't say that in your statement.

17 A. What?

18 Q. You said in your statement it was a black car.

19 A. I said blue or black, yes, ma'am, at first. And
20 that's when I seen -- when he jumped in the car, that's
21 when I actually seen what color the car was.

22 Q. But you didn't say that it was a white car in your
23 statement at all?

24 A. No, ma'am

25 Q. Why not?

ROBERSON - CROSS

1 A. I don't remember.

2 Q. How much had you been drinking that night?

3 A. Because I was drinking at Belagio's, I'd say I had
4 about eight drinks, nine drinks.

5 Q So you said before you were, that you were admittedly
6 drunk?

7 A. Yes, ma'am.

8 Q You don't really remember what happened?

9 A Yes, ma'am.

10 Q And you said that Mario swung at Joshua?

11 A. No, ma'am Jonathan Thomas.

12 Q. But later on you said that you heard gunshots and
13 Mario swung?

14 A. Yes, ma'am Yes, I did

15 Q. So Mario swung?

16 A Yes, ma'am When he came on the other side of the
17 car

18 Q Did you actually hear the gunshots?

19 A Yes, ma'am.

20 Q. How many?

21 A. Four It was like pow-pow, pow-pow.

22 Q And you heard someone yell that Mario had been shot
23 four times?

24 A. Yes, ma'am

25 Q. How fast were the gunshots between each other?

ADAMS - DIRECT

1 A They were like pow-pow pow-pow.

2 Q But you had ever see anyone with a gun?

3 A No, ma'am.

4 Q. Do you have any idea who shot Mario?

5 A. No, ma'am.

6 MS. STONEY No more questions.

7 THE COURT: Redirect?

8 MR. GIBBONS Nothing further from this witness,

9 Your Honor

10 THE COURT All right You may step down. Call
11 your next witness.

12 MR GIBBONS: Clay Adams.

13 THE COURT Any objection to her being released
14 from her subpoena?

15 MR. GIBBONS: No, sir.

16 THE COURT: You're free to go, ma'am.

17 MARTIN CLAY ADAMS, having been duly sworn, was
18 examined and testified as follows:

19 THE CLERK Have a seat in the witness box, state
20 your full name for the Court, spelling your last

21 THE WITNESS: Martin Clay Adams A. D. A. M. S.

22 DIRECT EXAMINATION

23 BY MR GIBBONS

24 Q. Mr. Adams, where are you employed?

25 A. I'm sergeant of forensic investigations for the

ADAMS - DIRECT

1 Sheriff of Aiken County

2 Q. And how long have you been in the sheriff's office,
3 investigations department?

4 A. Six years

5 Q. What are your primary duties there?

6 A. My duty is to respond to crime scenes, to collect
7 physical evidence and to examine physical evidence

8 Q. And have you received specialized training or
9 schooling in that field?

10 A. I have. I have attended classes in crime scene
11 processing, latent fingerprint identification and basic
12 detective, level one and two.

13 Q Are you the one that gets called out to the scene?

14 A I am

15 Q What do you do when you process the scene?

16 A. My primary job functions are to respond to crime
17 scenes and document them using still photography and
18 diagrams, collect physical evidence that's pertinent to a
19 case and later examine them in a lab environment.

20 Q. Now do you do this all by yourself or is someone
21 helping you take photographs and things like that?

22 A Typically it is just myself at the crime scenes but we
23 do have two other investigators.

24 Q. And were you called out on the night of December 4th
25 of last year?

ADAMS - DIRECT

1 A. Yes, I was

2 Q. What did you do that night?

3 A. Like I stated, my job description is to respond to
4 crime scenes and to collect and document.

5 Q. Did you go to the Elks Club that night?

6 A. I did.

7 Q. What did you do when you got there?

8 A When I arrived on the scene, the suspect scene had
9 been secured with crime scene tape and a deputy. Before I
10 do anything, I photograph the scene and its contents as
11 they're found

12 Q Were there a lot of people there when you got there?

13 A. No, there wasn't.

14 Q Just the officers pretty much?

15 A I believe an officer and maybe a couple of people that
16 were at the Elks Club.

17 Q Did you prepare a sketch of this crime scene?

18 A I did.

19 Q Would it help you to explain what you're referring to
20 with that diagram?

21 A It would

22 MR. GIBBONS Your Honor, I have shown that to
23 defense counsel without objection, and we would move
24 State's Exhibit 20 into evidence, the crime scene diagram.

25 THE COURT That's the sketch Without

ADAMS - DIRECT

1 objection.

2 (Thereupon, State's Exhibit No 20, crime scene
3 diagram, was received into evidence.)

4 BY MR GIBBONS.

5 Q. Step down here.

6 A (Complying.)

7 Q On State's Exhibit 20, is that a sketch that you
8 prepared that's been blown up?

9 A. It is.

10 Q Would you explain what you were trying to record when
11 you made that sketch? Can everybody see it? Are you left
12 handed or right handed?

13 A. I can do both

14 Q. Okay. Just don't get in front of the jury

15 A This is the sketch that I did. This is the 1054
16 Reynolds Pond Road, basically showing the relationship
17 between the physical evidence that I collected and the
18 building

19 Q I'm going to show you another exhibit I believe it's
20 without objection We would move State's Exhibit 12 into
21 evidence at this time, Your Honor

22 THE COURT: Without objection. That's an aerial
23 photo.

24 MR. GIBBONS. Aerial photograph

25 (Whereupon, State's Exhibit No. 12, aerial

ADAMS - DIRECT

1 photograph, was received into evidence)

2 BY MR GIBBONS

3 Q. Does this aerial photograph show the Elks Club?

4 A. It does

5 Q Which building would it be?

6 A This is the GIS mapping photograph This is the Elks
7 Club right here.

8 Q. Kind of like that?

9 A. Yes

10 Q Okay I'll put that right down here. All right. Go
11 ahead.

12 A Like I stated, when I responded the deputy had secured
13 the crime scene with crime scene tape. This is a dirt
14 driveway. When I initially arrived I started
15 photographing the scene and then I walked through with my
16 numerical markers and marked any piece of evidence that I
17 believe is pertinent to the case. In this instance, I
18 have marked eight pieces of physical evidence

19 Q When you say numerical markers, what would we call
20 that?

21 A. Little yellow number markers.

22 Q Like a cone?

23 A Cones. We use a little triangle marker with a number

24 Q. All right. I'm going to show you these photographs
25 State's Exhibit Four, Five, Six, and Seven, I would move

ADAMS - DIRECT

1 those into evidence at this time, Your Honor

2 THE COURT Without objection.

3 (Thereupon State's Exhibit No. 4, photograph,
4 State's Exhibit No. 5, photograph, State's Exhibit No. 6,
5 photograph, and State's Exhibit No. 7, photograph, were
6 all received into evidence)

7 BY MR GIBBONS

8 Q. If you could orient them as to each photograph and
9 show it to the jury?

10 A. State's Exhibit Number Four is a picture of the Elks
11 Club, facing in this direction Also in this photograph
12 you can see my numerical markers, number four, five and
13 six are captured in this photograph.

14 State's Exhibit Number Five is another photograph also
15 depicting my numerical markers This is in the dirt
16 parking lot. This picture is facing in this direction.

17 THE COURT: Hold on one second Let's just
18 publish them all at one time because they're trying to
19 look at the photographs and listen at the same time.
20 We'll let you look at them all at one time.

21 BY MR GIBBONS

22 Q Go ahead.

23 A. This photograph is taken from this direction This is
24 a big oak tree which is in this side -- which is in the
25 left side of this photograph or the Elks Club side of the

ADAMS - DIRECT

1 building is on this side of the photograph.

2 This is depicting numerical markers number two, three,
3 four, five and six

4 State's Exhibit Number Six is a closer picture of
5 numerical marker number two which is positioned right
6 here. This is a set of gold teeth, I believe referred to
7 as a grill, that I found on the ground.

8 This is a picture of numerical marker number one
9 It's a red, black and white in color R. and B. or H. and
10 B. -- H and R , excuse me, hat that was located and
11 marked as number one and found in this location

12 Q Did you collect all of those items?

13 A I did.

14 MR GIBBONS. Your Honor, we'd move State's 13,
15 14, 15, and 16 into evidence.

16 (Thereupon State's Exhibit No. 13, spent shell
17 casing, State's Exhibit No. 14, gold teeth grill, State's
18 Exhibit No. 15, spent shell casing and State's Exhibit No.
19 16, spent shell casings, and all were received into
20 evidence)

21 MS. STONEY: No objection

22 BY MR GIBBONS

23 Q Do you recognize these items?

24 A I do State's Exhibit 14 is marked as item number two
25 with my initials It's also labeled as gold teeth

ADAMS - DIRECT

1 State's Exhibit Number 16 is marked as item number
2 three with my initials, stating spent shell casing and the
3 date and times which I collected them.

4 State's Exhibit Number 13 is labeled as item number
5 four and labeled as spent shell casing with the time and
6 date collected with my initials

7 State's Exhibit Number 15 is marked as item number
8 five as a spent shell casing with the date and times that
9 I collected and my initials

10 Q. And those are the items that you picked up and the
11 items that you marked on this chart?

12 A. That is correct.

13 Q Would you open them up and show them to the jury,
14 please? One at a time And please state the number.

15 A (Complying) State's Exhibit Number 14 is item number
16 two This is marked as gold teeth

17 Q I would give you a pocketknife but they won't let me
18 have one

19 A. That's okay. Item number two, is collected right
20 here. And they are a set of gold teeth commonly referred
21 to as a grill.

22 Q. And again, where was that found?

23 A This was found closer towards the Reynolds Pond Road
24 between items number one which was the hat and item number
25 three

ADAMS - DIRECT

1 Item number three showing State's Exhibit 16 was
2 collected right next to the gold teeth, number two. This
3 is a spent shell casing. It's described as a spent
4 CBC-380 caliber shell casing.

5 Q. Is that how you identified it that night?

6 A That is. That is the stamping on the head of the
7 shell casing.

8 Q. That's if you look at the bottom, that's what's on it?

9 A Yes, sir

10 THE COURT: Any of you girls got an envelope
11 opener over there?

12 THE WITNESS I ripped the top off of it

13 THE COURT. We got off scissors.

14 THE WITNESS: Spent .380 caliber shell casing and
15 it is standard CBC-380 auto.

16 BY MR GIBBONS:

17 Q. And that was near the grill, the teeth?

18 A. Yes, sir, number three Item number four, State's
19 Exhibit 13, is another spent shell casing collected right
20 up above number three. It is also stamped CBC-380 auto.

21 Q. Do you know what CBC is?

22 A. I do not. Item number five, State's Exhibit 15, is
23 marked as a spent shell casing. Item number five was
24 collected right next to number four, approximately about a
25 foot and a half, foot and a half of each other. And it

ADAMS - DIRECT

1 too is a spent CBC-380 auto, the same as the prior two.

2 Q. All right I'm going to hand you State's Exhibit
3 Number 15 We would move 17 into evidence, Your Honor.

4 MS. STONEY. No objection.

5 (Thereupon, State's Exhibit No 17, hat, was
6 received into evidence)

7 THE WITNESS: State's Exhibit 17 is marked as
8 item number one, with the date and time that it was
9 collected.

10 Item number one is a red and black and gray
11 colored H R. hat. The hat was located at the base of the
12 driveway of T & S Drive.

13 MR GIBBONS. Your Honor, we'd also move State's
14 18 into evidence without objection

15 MS STONEY: No objection

16 (Thereupon, State's Exhibit No. 18, shoe, was
17 received into evidence)

18 THE WITNESS. State's Exhibit 18 is marked as
19 number six which is a black-in-color woman's shoe. And it
20 was collected to the top section of the parking lot near
21 the oak tree

22 BY MR GIBBONS

23 Q Now Investigator Adams, your diagram shows the area
24 immediately around the building?

25 A. Yes, sir.

ADAMS - DIRECT

1 Q. Did you check any further around the building than
2 right there by that tree?

3 A. I did.

4 Q. Show us, please, where you checked. Would it be more
5 helpful on this?

6 A. Yes, sir

7 Q. On State's 12?

8 A. The area that I checked at night, actually, I'm sorry,
9 early in the morning, I checked -- this is T & S Drive. I
10 checked from the Carriage Hills place down to

11 approximately here, up T & S Drive. This is a field, and
12 I checked all the way up to the fire station, substation.

13 Q. What's the terrain like around that building?

14 A. From the building down where the parking lot is it's
15 very sandy, a very low-cut grass. From the top section of
16 the Elks Club up is real thick, broom-straw style of
17 field

18 Q. And you checked that whole area?

19 A. I did. Specifically the dirt road of T & S Drive from
20 the top of the parking lot out into the grass field and
21 down

22 Q. And what about 19, did you get that far out?

23 A. No, sir

24 Q. And what were you looking for?

25 A. I was looking for any more physical evidence including

ADAMS - DIRECT

1 a weapon, more shell casings, anything that I felt was
2 pertinent to this crime

3 Q Now did you do this during the nighttime or daytime
4 hours?

5 A Both

6 Q Both?

7 A. Nighttime I checked this area, came back during the
8 daytime, during the daylight hours and more specifically
9 checked the immediate crime scene.

10 Q. And did you find anything else in your search?

11 A. I did not.

12 Q No other shell casings?

13 A No, sir

14 Q Now as part of your duties, do you analyze everything
15 that you collect?

16 A No, I do not.

17 Q What kind of stuff do you send off?

18 A. The sheriff's office --

19 THE COURT: Do you need him back down there?

20 MR GIBBONS: No, that's fine He can go back
21 up

22 THE WITNESS: (Returns to witness stand) At the
23 sheriff's office we're equipped to handle latent
24 fingerprint examinations, footwear examinations, drug
25 examinations, however, any evidence dealing with

ADAMS - DIRECT

1 ballistics or serology trace evidence we send to the State

2 Law Enforcement Division

3 BY MR GIBBONS

4 Q. Did you send those shell casings off for any testing?

5 A I did not.

6 Q. Is there a reason why you chose not to do that?

7 A. I did. Shell casings, they will not be able to render

8 an opinion with a shell casing without a firearm or a

9 known medium to compare it to.

10 Q. So you would have to have the gun; is that what you're
11 saying?

12 A Yes, sir

13 Q. Was there ever a gun recovered in this case to your
14 knowledge?

15 A. There was not

16 Q. Did you find anything -- do you also search for any
17 kind of blood evidence when you do a crime scene?

18 A. I do

19 Q And did you search this crime scene?

20 A I did

21 Q. And were you able to find any place where there was
22 blood at the crime scene?

23 A. I was not

24 Q. Did you have occasion to process a vehicle associated
25 with this case?

ADAMS - CROSS

1 A I did

2 Q I'm going to show you State's Exhibits One, Two, and
3 Three. Your Honor, I would move them into evidence.

4 MS STONEY: No objection.

5 THE COURT: Without objection.

6 (Thereupon, State's Exhibit No. 1, photograph,
7 State's Exhibit No 2, photograph, and State's Exhibit No.
8 3, photograph, were received into evidence.)

9 BY MR. GIBBONS:

10 Q Do you recall processing that vehicle?

11 A. I do.

12 Q Did you do a search of the inside and the outside?

13 A I search was conducted, yes

14 Q. Did you find any evidence of any bullet holes or
15 damage done by a weapon to that car?

16 A No, sir

17 Q Did you check the outside closely?

18 A. I did

19 Q. Did you do a fingerprint analysis of this car?

20 A No, I did not.

21 Q. And was there a reason why you chose not to do that?
22 Was it relevant to your investigation?

23 A No, sir

24 Q Is that the extent of the forensic side of this case,
25 Investigator Adams?

ADAMS - CROSS

1 A. Yes, sir.

2 MR GIBBONS: Answer any questions that
3 Ms Stoney may have for you

4 THE COURT: Cross Hold on one second
5 Everybody okay? Move along.

6 CROSS-EXAMINATION

7 BY MS. STONEY:

8 Q Mr. Adams, did you find any blood on the outside of
9 the car?

10 A On the outside of the vehicle? Not to my knowledge,
11 no

12 Q. Would they have been able to find out whether or not
13 there were fingerprints on the shell casings if you had
14 sent them off?

15 A. Typically, to answer your question, yes or no The
16 processing of shell casings especially with that caliber,
17 as small as it is It typically has a lower percentage of
18 development of fingerprints due to the surface area of the
19 item

20 Q But you didn't send them off to find out if there were
21 any?

22 A No, I did not.

23 Q. And you said that an officer and some of the people
24 from the Elks Club were there --

25 A To the best --

ADAMS - CROSS

1 Q. -- when you arrived?

2 A. Yes, ma'am.

3 Q. What time was it?

4 A My arrival time was 3:54 in the morning

5 Q So not long after the incident?

6 A. I'm not aware of the actual time of the incident

7 Q. Okay. And it was on the date that you actually
8 arrived, December 4th?

9 A Yes, ma'am.

10 Q One quick question, if I could ask you On your
11 diagram -- if you can come down, please?

12 A (Complying.)

13 Q. What did you say number seven was?

14 A. Number seven is a Waffle House plastic bag.

15 Q. And do you know if it has any relevance to the case at
16 all?

17 A No.

18 Q What about number eight?

19 A. Number eight is a gray-in-color sweatshirt

20 Q And do you know if that has any relevance to the case?

21 A. No.

22 Q The shoe and the gold teeth, were they ever sent off
23 for any kind of testing?

24 A. No.

25 Q. So we don't know who they belong to at all or whether

BUSSEY CAMPBELL - DIRECT

1 or not they have any relevance to this case at all?

2 A. No

3 MS. STONEY: No more questions

4 THE COURT Redirect?

5 MR. GIBBONS: No, Your Honor.

6 THE COURT All right. You may step down. Do
7 you want to take one more witness or do you want to take a
8 mid-morning break? Next witness

9 MR GIBBONS: All right State would call Tamika
10 Bussey

11 TAMIKA BUSSEY CAMPBELL, having been duly sworn,
12 was examined and testified as follows

13 THE CLERK: Have a seat in the witness box, state
14 your full name for the Court, spelling your last.

15 THE WITNESS Tamika Campbell.

16 DIRECT EXAMINATION

17 BY MR GIBBONS

18 Q Ms Campbell, where are you from?

19 A. Johnston

20 Q. How long have you lived in the Aiken area?

21 A About 13 years

22 Q Did you know the Defendant in this case, Joshua
23 Forrest?

24 A. Yes, sir

25 Q What is your relationship with him?

BUSSEY CAMPBELL - DIRECT

1 A. Nothing at this time.

2 Q. What has it been in the past?

3 A. Girlfriend.

4 Q. Back in December of last year, were y'all boyfriend
5 and girlfriend then?

6 A. No, sir

7 Q. Y'all were broken up?

8 A. Yes, sir.

9 Q. How long had y'all been broken up?

10 A. Since November

11 Q. About a month?

12 A. Yes, sir

13 Q. What were you doing on the night of December 4?

14 A. We went to the club

15 Q. Which club?

16 A. The Elks

17 Q. And who were you with that night?

18 A. Tanika Roberson, Mario Reddish, Jonathan Thomas,
19 Charles Bush, Jeanette Thomas, Nicole Funchez, Timothy
20 Johnson That was it

21 Q. Did y'all come together?

22 A. Yes, sir

23 Q. Y'all rode in the same car?

24 A. We rode in different cars We followed behind each
25 other

BUSSEY CAMPBELL - DIRECT

1 Q. Who did you ride up with?

2 A Tanika Roberson

3 Q. What time did you get to the club?

4 A. We got to the club around about 12:30.

5 Q. What was going on when you got there?

6 A. Nothing. We just went in the club and we was just
7 mingling around

8 Q. Had you all been drinking?

9 A. I had a half a cup of alcohol.

10 Q The whole night?

11 A. The whole night

12 Q. And were you on a date with anybody that night?

13 A No, sir

14 Q Just in a group?

15 A Just in a group.

16 Q. And did you see the Defendant in this case that night?

17 A. Yes, sir

18 Q. When did you first see him?

19 A. When he came in the club, I saw him when he came in
20 and then when he approached me about signing the title
21 about his car

22 Q Okay. What was up with that?

23 A We wanted me to sign over the car to his mom

24 Q. Was it his car?

25 A. Yes, sir It was in my name.

BUSSEY CAMPBELL - DIRECT

1 Q. It was titled in your name?

2 A. Yes, sir

3 Q. Had y'all talked about that before?

4 A. Yes, sir.

5 Q. And he wanted you to sign it over that night?

6 A. He asked me can I sign the title over to his mom, but
7 it wasn't that night. He was just asking me.

8 Q. If you were going to do that?

9 A. Yes, sir

10 Q. Did y'all get in a fuss about that?

11 A. No, sir I just walked away. I told him, don't be
12 asking me about no car.

13 Q. Is that the end of y'all's conversation that night?

14 A. No, sir

15 Q. What happened then?

16 A. Well, I walked away and I walked over to a different
17 crowd of people and he sent someone over there to say
18 something to me

19 Q. Did he come over there?

20 A. No, sir.

21 Q. Did y'all get into another argument inside of the
22 club?

23 A. Yes, sir

24 Q. What was that about?

25 A. About a hat and shoes.

BUSSEY CAMPBELL - DIRECT

1 Q. What was going on with the hat and shoes?

2 A. Well, I told him if he wanted me to sign over the
3 title to his car why don't he take off the shoes that I
4 bought him

5 Q And did that become an argument?

6 A. Yes, sir.

7 Q. A calm argument?

8 A. It was like a calm argument. I walked away When I
9 walked away with the hat in my hand, I walked to the back
10 of the club

11 Q So you got the hat from him, he gave it to you?

12 A. I took the hat off his head

13 Q. And did that cause a problem?

14 A. No He walked where I was I walked back to the back
15 club. Like this is where he was sitting in the middle. I
16 took the hat off his head. I walked to the back part of
17 the club. He followed me.

18 Q. And what happened after he followed you back there?

19 A We got into an argument

20 Q. Let me show you what's been marked as State's Exhibit
21 Number 17 Do you recognize that?

22 A. That's the hat.

23 Q That's the hat that y'all were arguing about that
24 night?

25 A. Yes, sir

BUSSEY CAMPBELL - DIRECT

1 Q. Was it torn like that?

2 A No, sir.

3 Q But that's the one y'all were arguing about?

4 A Yes, sir

5 Q. All right. You took the hat off of him, went back to
6 the back of the club He came back there and y'all
7 started an argument. What happened during the argument?

8 A. It was like a little bit of touching Then when he
9 grabbed me, I threw the alcohol in his face that I had in
10 the cup that I was drinking out of.

11 Q. Yes, ma'am

12 A And then that's when people started getting between
13 us.

14 Q. People started doing what?

15 A. Getting between us. Like that's him, and this is me

16 Q. Who was getting between y'all, do you remember?

17 A. It was Tanika Roberson and Jonathan Thomas

18 Q And they were separating the two of y'all?

19 A Yes, sir

20 Q And what happened then?

21 A. Then Jonathan Thomas told Joshua Forrest that he
22 wasn't going to be putting his hands on me And that's
23 when Mr Reddish came over there.

24 Q. And did you know Mr. Reddish?

25 A. Yes, sir I did.

BUSSEY CAMPBELL - DIRECT

- 1 Q What was your relationship with him?
- 2 A. He was like my best friend
- 3 Q Were y'all boyfriend and girlfriend?
- 4 A. No, sir
- 5 Q Just close friends?
- 6 A Yes, sir.
- 7 Q And he and Jonathan kind of broke y'all up again?
- 8 A. Yes
- 9 Q What happened after that?
- 10 A. After that Joshua went out the door, and then Jonathan
- 11 and Mario went out the door. And me and Tanika and Chris
- 12 stayed in the club
- 13 Q. How long did y'all stay in the club?
- 14 A. For about two to three minutes
- 15 Q. Then what did you do?
- 16 A We walked out the entrance to go out the club
- 17 Q What was going on when you got out the club?
- 18 A They was having a little altercation.
- 19 Q Who was?
- 20 A Joshua Forrest and Jonathan Thomas
- 21 Q. Was Mario out there, too?
- 22 A Yes, sir
- 23 Q. Was he in the altercation, too?
- 24 A He wasn't fighting with Joshua. He was trying to
- 25 break it up.

BUSSEY CAMPBELL - DIRECT

1 Q If you could, come down here There's a diagram here
2 of the club

3 A. (Complying.)

4 Q Do you recognize how that's laid out?

5 A. Yes, sir

6 Q Could you stand to the side so they can -- you got to
7 show these people. Could you state where everybody was
8 that night?

9 A We came out this entrance. Tanika car is right here,
10 car was right here.

11 Q Parked facing which way?

12 A. This way

13 Q Facing to the street?

14 A Facing to the club.

15 Q. Facing to the club?

16 A Uh-huh

17 Q Right here?

18 A. Uh-huh.

19 Q. An arrow to the front, right?

20 A. Uh-huh, yes

21 Q Okay. That's the car you came in?

22 A. Yes, sir

23 Q Was there another car out there?

24 A. Yes The car that James Forrest was driving was right
25 here beside the oak tree.

BUSSEY CAMPBELL - DIRECT

- 1 Q Facing which way?
- 2 A. It was facing the same way we was facing.
- 3 Q. Right here by the number seven?
- 4 A Yes, sir.
- 5 Q Where was everybody at, the people?
- 6 A Standing right here beside James Forrest car
- 7 Q Who was there?
- 8 A It was James standing by the front door, Joshua
- 9 standing by the back door.
- 10 Q. James was by the front -- was the door open or closed?
- 11 A It was open.
- 12 Q So you said James was here?
- 13 A. Uh-huh No. They was standing -- like when they had
- 14 the doors open like they was standing right--
- 15 Q. In the doorway?
- 16 A. Uh-huh
- 17 Q. Who else was by the car?
- 18 A. Joshua Forrest
- 19 Q. Which door was he here?
- 20 A Like between the back door
- 21 Q. He was standing inside the back door?
- 22 A Uh-huh.
- 23 Q Was there anybody else around the car?
- 24 A. Yes It was Jonathan standing up on Joshua.
- 25 Q. He was standing where?

BUSSEY CAMPBELL - DIRECT

1 A He was standing in front of Joshua

2 Q. At the back of the car?

3 A Uh-huh. And Mario was standing behind Jonathan

4 Q So Jonathan was here?

5 A Uh-huh No. Jonathan was right here because they're
6 all facing this way

7 Q. They're facing the club?

8 A They're facing the club

9 Q. Did I get the names wrong?

10 A It was James, then it was Joshua standing back here by
11 the back door It was Jonathan standing right here and
12 Mr. Reddish standing right there

13 Q One was in front or both in front?

14 A. They both in front.

15 Q. Over here?

16 A Uh-huh Right here.

17 Q They were here?

18 A Uh-huh.

19 Q. And then Mario was the same, right next to Jonathan?

20 A Uh-huh

21 Q. What were they doing?

22 A Well, I was just heard commotion going back and forth
23 between Jonathan and Joshua.

24 Q Did you hear Mario in the middle of their
25 conversation?

BUSSEY CAMPBELL - DIRECT

1 A. I heard Mario trying to stop it

2 Q What happened next?

3 A. What happened next was when we heard the gunfires.

4 Q. How many gunshots did you hear?

5 A Two

6 Q. Did you see a gun?

7 A. Did I see a gun? I seen a gun, but I couldn't tell
8 who had the gun in their hand.

9 Q Did you hear all the shots come at one time?

10 A It was like pow pow.

11 Q How many times did you hear it go off?

12 A. Twice

13 Q. Just twice?

14 A When I walked out the door

15 Q. Did you hear any more shots after that?

16 A No. I just heard people started screaming and stuff

17 Q And what did you do?

18 A. What did I do? I seen them jump in the --

19 THE COURT She can come back up here.

20 THE WITNESS (Complying) I seen him jump in
21 the car. What I did, I had on some heels. The white car
22 that James Forrest was driving, they jumped in that car to
23 speed off. I had on some heels I took off one of my
24 heels and threw it, threw it at the car.

25 BY MR GIBBONS:

BUSSEY CAMPBELL - DIRECT

1 Q. Threw it at the car they were in?

2 A. Yes, sir

3 Q. I'm going to show you what's been marked as State's

4 Exhibit 18

5 A That's it.

6 Q. Is that the shoe you're talking about?

7 A. Yes, sir

8 Q. I'm going to show you State's Exhibit Number One. Do
9 you recognize that?

10 A Yes, sir.

11 Q What is that?

12 A Yes, sir.

13 Q What is that?

14 A That was the car they was riding in

15 Q The white Lincoln they drove off in?

16 A Yes, sir

17 Q I'm going to show you what's been marked as State's

18 Exhibit 14

19 A That's Mario grill

20 Q Whose is it?

21 A Mario.

22 Q. What is it?

23 A. Gold teeth.

24 Q And whose is it?

25 A Mario's.

BUSSEY CAMPBELL - DIRECT

1 Q Was there a shirt involved in y'all's argument?

2 A. No, sir

3 Q. Just a hat?

4 A Hat and shoes

5 THE COURT. Mr Gibson, would you put that down?

6 MR GIBBONS I'm sorry

7 BY MR GIBBONS

8 Q Now, after you heard these shots you seen the Lincoln
9 drive off, you threw your shoe at him What was the next
10 thing that happened?

11 A We drove Mario to the hospital. Lamont Bean and
12 Christopher Roper picked him up and put him in the car.

13 Q. You went with him to the hospital?

14 A. Yes, sir

15 Q. Did you ever see anybody locked up with each other
16 fighting that night?

17 A No, sir.

18 Q And at any time did you hear any threats being made?

19 A. No, sir.

20 Q. Did you -- and you saw a gun, but you didn't know who
21 had it?

22 A Yes, sir.

23 Q After the -- after they got in the Lincoln and drove
24 off, did you hear any more shots after that?

25 A. No, sir

BUSSEY CAMPBELL - DIRECT

1 Q. Now you've dated both the victim and the Defendant in
2 this case; correct?

3 A. No, sir

4 Q. You're friends with Mario?

5 A. Yes, sir

6 Q. And you've known him for a long time?

7 A. Yes, sir

8 Q. Do you know if the Defendant knew Mario?

9 A. Yes, sir

10 Q. Do you know what that kind of relationship was like?

11 A. Well, while me and Joshua was dating they all talked.

12 There was no altercation going on

13 Q. They had been friends before?

14 A. Yes, sir, to my knowledge.

15 Q. Did you know of any grudge between the two of them?

16 A. No, sir

17 Q. Were there a lot of people out there when the shots
18 rang out?

19 A. Yes, sir.

20 Q. Could you give us a guess at how many?

21 A. About the whole club. The whole club was out the door
22 but in that particular area, it was just the ones that I
23 named and a couple of more people that was with us. We
24 all gathered at the club together.

25 Q. Now when this argument was going on along besides the

BUSSEY CAMPBELL - CROSS

1 door of the car --

2 A Yes, sir

3 Q -- how many guys were there, right there, with that
4 going on?

5 A Six

6 Q. And who were they?

7 A It was Joshua Forrest, Jonathan Thomas, Mario Reddish,
8 James Forrest and Joseph Gartrell.

9 Q That's -- is that six?

10 A. That's five. I'm sorry

11 Q. Was there another one there?

12 A. No, sir.

13 Q. What about this big crowd, were they ever in that part
14 of the parking lot?

15 A. No Everybody was like towards, going to get into
16 their car.

17 Q So, it wasn't a big mass gathered around the argument?

18 A. No, sir. We was all parked up in, like the way that
19 the Elks is made, it's cars on the side, then cars was
20 over there by the oak tree. Tanika car was parked right
21 beside the car that was James and him was in. So that's
22 the car her and Sherry was getting in.

23 Q. Did you ever hear the Defendant say anything to Mario
24 and Jonathan when this was going on?

25 A. He told them they better back up off of him.

BUSSEY CAMPBELL - CROSS

1 Q At what point did he say that?

2 A. When they was by the car

3 Q. Did you see anybody passing licks?

4 A. No, sir

5 Q. And if you had to say the two people that were hottest
6 in this argument, who were they?

7 A. Jonathan Thomas and Joshua Forrest

8 MR GIBBONS. Answer any questions Ms Stoney
9 has

10 CROSS-EXAMINATION

11 BY MS. STONEY.

12 Q You say that you arrived there with Tanika, Timothy
13 Mario, Johnson and who else?

14 A Jonathan Thomas, Charles Bush and Jeanette Thomas

15 Q. And Nicole?

16 A And Nicole Funchez

17 Q And you arrived about 12.30?

18 A. To my knowledge about 12.30 or something till one. It
19 was probably a little earlier than that

20 Q So basically were you with Mario and Jonathan at the
21 time you got there?

22 A. No. I rode in the car with Tanika. We walked in
23 together. Jonathan and Mario walked in together. We all
24 left one club and came to another.

25 Q. So you were all basically together, just in two

BUSSEY CAMPBELL - CROSS

1 separate cars?

2 A. Yes.

3 Q What club did y'all leave?

4 A. Belagio's

5 Q Were you drinking there?

6 A No, ma'am.

7 Q. Outside after Joshua left the club Jonathan and Mario
8 were surrounding him by his car. Is that your testimony?

9 A. Yes, they was right there where he was

10 Q And was he trying to get in the car?

11 A I can't tell he was trying to get in the car They
12 was standing beside the car with the doors open when I
13 came out the door

14 Q. Did you see everything that happened that night?

15 A Most of it It started in the club.

16 Q Did Mario ever hit --

17 A I didn't see Mr Reddish touch Mr Forrest at all

18 Q. Were you looking at him the whole time?

19 A No, I wasn't but when I got out the door I looked over
20 there and walked towards that way

21 Q. So it's possible that Mario may have hit him and you
22 just didn't see it?

23 A I didn't see it. I'm saying to my knowledge I didn't
24 see him.

25 Q How close were the rest of the cars parked there? How

BUSSEY CAMPBELL - CROSS

1 many cars were in the parking lot?

2 A. I can't -- I don't know how many cars was in there,
3 but it was a lot of cars out there

4 Q. Were they all relatively close?

5 A. Everybody was leaving

6 Q. Were they all relatively close together?

7 A. About this far apart. Like that.

8 Q. So they were basically a lot of cars around?

9 A. Uh-huh

10 Q. Do you have any idea how Mario's teeth got out of his
11 mouth?

12 A. No, ma'am.

13 Q. Okay. So y'all just -- you just found them there?

14 A. I didn't find find them.

15 Q. Okay. But you know that those were Mario's teeth?

16 A. Yes, I do.

17 Q. Why did you throw a heel at the car?

18 A. Because they jumped in the car and sped off. I threw
19 my shoe at the car to try to stop the car

20 Q. Isn't it true that you were the first to approach
21 Joshua inside the Elks Club?

22 A. No, ma'am. It's not. He approached me first about a
23 car.

24 Q. Weren't you very angry with him?

25 A. No, ma'am

BUSSEY CAMPBELL - CROSS

1 Q So it would surprise you to find that other witnesses
2 have said or another witness has said --

3 MR. GIBBONS Your Honor, I object.

4 THE COURT. I sustain. You can't pit witnesses.

5 BY MS. STONEY:

6 Q. So you weren't angry at him at all?

7 A. No, ma'am

8 Q. But you snatched the hat off his head?

9 A. Yes, I did

10 Q. And what did you do after you snatched the hat?

11 A. I walked away. I walked down the walkway to the back
12 of the club

13 Q. Did you ever at any time slap him?

14 A. No, ma'am

15 Q. Never hit him at all?

16 A. No, ma'am. I threw a drink in his face

17 Q. When did you throw the drink in his face?

18 A. After he came down there where I was and grabbed me I
19 threw the drink in his face

20 Q. Why?

21 A. Because he grabbed me

22 Q. So you never -- you never initiated any of this?

23 A. No, ma'am

24 Q. In your statement with the police, what color did you
25 say the car was that Joshua was driving?

BUSSEY CAMPBELL - REDIRECT

1 A. I thought the car was blue because I seen the blue on
2 the back of it. Tanika said it was white I thought it
3 was blue

4 Q To your recollection it was blue?

5 A. Yeah

6 MS STONEY: No more questions.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 BY MR GIBBONS:

10 Q In your statement you said the car was blue?

11 A Yes, sir.

12 Q. Had you seen that car before?

13 A. No, sir

14 Q. Any doubt who was standing next to that car?

15 A No, sir

16 Q Do you remember giving a statement?

17 A. Yes, sir

18 Q. And in the statement you said you thought it was an
19 Oldsmobile?

20 A. Yes, sir.

21 Q. Let me let you look at the statement. Don't read it.
22 Read it to yourself

23 A. (Complying) Okay.

24 Q So in the statement you said it was a blue car?

25 A Yes, sir.

BUSSEY CAMPBELL - RECROSS

1 Q. You also mentioned a gun in the statement, didn't you?

2 A. Yes, sir

3 Q. Did you say you saw a gun in the statement?

4 A. Yes, sir

5 Q. And who did you say you saw the gun with?

6 A. Junior.

7 Q. And who was Junior?

8 A. Joshua Forrest

9 Q. Did you see him with a gun that night?

10 A. No, sir I thought I seen he had the gun, but I
11 really couldn't tell.

12 Q. So do you admit or deny telling the officers at
13 5.10 a m. on 12-4-05, Junior said y'all better get off me
14 and pull out a gun and started shooting in the air. Do
15 you admit or deny saying that to the officers?

16 A. Yes, sir

17 Q. You admit it?

18 A. Yes, sir. I said that that night.

19 Q. Do you admit or deny saying that he walked on the
20 other side of the parked car and started shooting and
21 Mario fell down?

22 A. Yes, sir

23 Q. Did you say that that day?

24 A. Yes, sir.

25 MR GIBBONS. Thank you

1 THE COURT: You may step down.

2 MS. STONEY: Your Honor, may I recross?

3 THE COURT: Yes, ma'am

4 RECROSS-EXAMINATION

5 BY MS. STONEY:

6 Q So you're saying that you don't remember seeing a gun?

7 A I remember seeing the gun I just don't remember
8 seeing who had the gun.

9 Q. You don't know that Joshua had the gun?

10 A No, ma'am.

11 Q. Do you know who killed Mario?

12 A. No, ma'am

13 MS STONEY: Thank you

14 THE COURT: All right You may step down. Madam
15 Forelady, let's take a little short morning break. Here's
16 what I propose to do, go to about 12.30, y'all take a
17 break at that time. Don't discuss the case Let me see
18 where I stand with the lawyers and we'll start back If
19 any of you need a smoke -- how many -- you must really
20 need one bad. Those who want to smoke, you know the
21 rules Go down with the bailiff.

22 Don't talk about the case And we'll get ready
23 to start back. Everybody remain seated, please Yes,
24 ma'am. Be seated.

25 (Jury exits courtroom at 11:48 a m)

FORREST - DIRECT

1 (Thereupon, another matter was heard by the
2 Court)

3 THE COURT: Anything for record before we start?

4 MS STONEY: No, Your Honor.

5 THE COURT: How many witnesses do you have all
6 together? That's all right. You can look at it at
7 lunch All right Bring the jury in, please Go ahead
8 and call your next witness.

9 MR. GIBBONS James Forrest

10 (Jury enters courtroom at 12:09 a.m.).

11 JAMES FORREST, having been duly sworn, was
12 examined and testified as follows:

13 THE CLERK Have a seat in the witness box.
14 State your full name for the Court, spelling your last

15 THE WITNESS. My name is James Forrest. Forrest,
16 F. O R. R. E. S. T is my last name.

17 THE COURT Speak up so we can hear you.

18 DIRECT EXAMINATION

19 BY MR. GIBSON:

20 Q James, are you related to Joshua Forrest?

21 A Yes

22 Q. How are you y'all related?

23 A. We're cousins

24 Q. And do you live close by each other?

25 A. No, sir.

FORREST - DIRECT

1 Q. How far apart do y'all live?

2 A. About 15, 20 miles

3 Q. And how often do you see each other?

4 A. Every day

5 Q. Do you hang out together?

6 A. Yes

7 Q. And did you hang out together about a year ago?

8 A. Yes.

9 Q. Were you guys together at the Elks Club?

10 A. Yes, we together.

11 THE COURT: Mr Forrest, you're going to have to
12 speak up, please.

13 THE WITNESS: Yes, sir

14 THE COURT Please speak up

15 THE WITNESS Can I pick the mic up?

16 THE COURT. Sure

17 BY MR. GIBBONS.

18 Q. Were you at the Elks Club on December 4 of last year?

19 A. Yes.

20 Q. And who were you with that night?

21 A. When I arrived it was me, Joseph Gartrell and my
22 brother

23 Q. And who is your brother?

24 A. His name is Bodene

25 Q. Did you arrive with Joshua Forrest that night?

FORREST - DIRECT

- 1 A No, sir
- 2 Q What car were you in?
- 3 A. I was in my white Lincoln
- 4 Q. If I show you State's Exhibit Number One, is that the
- 5 car you were in?
- 6 A. Yes, sir
- 7 Q And who was driving that car that night?
- 8 A I was
- 9 Q Who was -- who did you say was with you, Bodene.
- 10 A Yes, sir
- 11 Q. What's his real name?
- 12 A. Felder Johnson
- 13 Q. Sir?
- 14 A Felder Johnson.
- 15 Q. And who else was in the car?
- 16 A Joseph Gartrell.
- 17 Q. And where had y'all been that night?
- 18 A. To the Elks Club
- 19 Q Just went straight there?
- 20 A. Yes, sir.
- 21 Q. What time did you get there?
- 22 A. About 1 30.
- 23 Q. In the morning?
- 24 A Yes, sir.
- 25 Q And how long did you stay at the club?

FORREST - DIRECT

1 A. I would say about, all together about, like, an hour
2 and a half.

3 Q. Did you ever see the Defendant in this case that
4 night?

5 A Yes

6 Q. Tell us how that happened.

7 A. He arrived about 30 to 45 minutes after we arrived

8 Q Do you know who he came with?

9 A No. I'm not sure who he came with

10 Q But you saw him?

11 A Yes.

12 Q. And did you talk to him?

13 A Yes, I did After he arrived me and him began hanging
14 together The other two that was with us split up

15 Q. And how long did y'all hang together?

16 A. The rest of that night We was together the rest of
17 the night

18 Q. Right by each other the rest of the night?

19 A Yes

20 Q Do you know Tamika?

21 A Yes.

22 Q How about Tanika?

23 A Yes.

24 Q Jonathan Thomas?

25 A Yes.

FORREST - DIRECT

- 1 Q Mario Reddish?
- 2 A. Knew of him.
- 3 Q. You knew of him?
- 4 A Yes
- 5 Q. Did you see them that night?
- 6 A. Yes. I seen them inside
- 7 Q. And did you see Joshua talking to any of them?
- 8 A. Yes. Earlier he was, he was -- him and Tamika had got
- 9 into an altercation inside
- 10 Q. And do you know what that was about?
- 11 A. Because he was talking to another female
- 12 Q You said they got into a little altercation What
- 13 does that mean?
- 14 A. She started pulling on him, pulling on his clothes,
- 15 knocking his hat off, slapping him
- 16 Q. Did you see her throw a drink?
- 17 A Yes. She threw a drink on him also
- 18 Q. What happened after they had that little tussle?
- 19 A. Half of the people at the club left for their homes,
- 20 they broke Half of the club was inside. Half of the
- 21 people went outside. Half of us was still in.
- 22 Q Did Joshua stay inside?
- 23 A I think they had pushed him outside.
- 24 Q. And who is they?
- 25 A. The owners of the club.

FORREST - DIRECT

1 Q The owners? Who broke up the fight, the argument?

2 A. The owners of the club

3 Q. Sir?

4 A The owners of the club.

5 Q. And so you -- did you go outside then, too?

6 A. No, I didn't go outside until after -- I was in the
7 second half of the crowd

8 Q. And did you hear anything going on outside?

9 A. I mean, I heard commotion but, but, it was loud in
10 both places, outside and inside.

11 Q. How many people do you think were there that night?

12 A About 150 to 200.

13 Q When you finally did get outside, what was going on?

14 A When I finally stepped outside, I heard -- that's when
15 I heard the gunshots

16 Q How many gunshots did you hear?

17 A. If I'm not mistaken, three

18 Q What did you do when you heard the gunshots?

19 A I fled to my car

20 Q Who was with you at that point?

21 A When I fled to my car, it was me and Joseph together.

22 Q Joseph?

23 A Gartrell.

24 Q. And did you get into your car?

25 A. Yes, sir

FORREST - DIRECT

1 Q How many shots had you heard; three, you say?

2 A I heard three

3 Q Did you see Joshua at that point?

4 A No. I seen him, like, two seconds later.

5 Q Up until before you heard the shots, did you see

6 Tamika, Tanika, Jonathan, Mario, any of those people?

7 A No, I didn't see any of them I seen Tanika Tanika
8 was still inside of the club with us

9 Q And you got in the car with Joseph, correct?

10 A Yes.

11 Q Now I'm going to show you what's been marked as

12 State's Exhibit 20 Do you recognize that drawing?

13 A Yes, sir.

14 Q What -- do you see a number that's approximately where
15 your car was?

16 A Yes. My car was right here.

17 Q Number seven --

18 A Yes.

19 Q -- place?

20 A Yes

21 Q Which way was it facing?

22 A It was facing this way, towards the club

23 Q And when you got in it and Joseph got in it with
24 you --

25 A Yes.

FORREST - DIRECT

1 Q -- what do you do next?

2 A. I seen Joshua was running up to the other side of the
3 window

4 Q To the other side of the window?

5 A On the passenger side

6 Q. In the front or the back?

7 A Front

8 Q Did you have the car cranked up already?

9 A. No, sir The car wasn't crunked (sic) yet.

10 Q. You saw him running up to the passenger side window,
11 that's where Joseph was sitting?

12 A. No Joseph was sitting in the back seat

13 Q What happened after he ran up to the window?

14 A. He said, let me in, they're shooting at me So I let
15 him in

16 Q Did you hear any more shots?

17 A Yeah There was shots fired after we pulled off.

18 Q How many did you hear after you pulled off?

19 A. I'm not sure Maybe two or three more.

20 Q. And where did you go?

21 A. Straight out, made a left at the sign, kept straight
22 out. He told me to drop him off at the Golden Pantry.

23 Q So you went straight out to what road?

24 A. Straight out Reynolds Pond.

25 Q. Reynolds Pond and then it hits what?

FORREST - DIRECT

- 1 A Where the Memorial Park is.
- 2 Q The main highway, 19?
- 3 A. Nineteen.
- 4 Q. And which way did you turn when you got to 19?
- 5 A. Left
- 6 Q Towards town?
- 7 A. Yes
- 8 Q And where did you go?
- 9 A Golden Pantry.
- 10 Q That is the store down there by Aiken High? Is that
- 11 the one you're talking about?
- 12 A Right between the lights.
- 13 Q What did you do when you got to the Golden Pantry?
- 14 A. I dropped Joshua off
- 15 Q. Is that the last you saw him that night?
- 16 A Yes.
- 17 Q Where did you go following dropping him off?
- 18 A. To my girl's house.
- 19 Q Did you give some statements in this case?
- 20 A Yes, sir
- 21 Q How many did you give the officers?
- 22 A I'm not sure
- 23 Q A couple?
- 24 A A couple.
- 25 Q Were they both the same, the first one and the last

FORREST - DIRECT

1 one?

2 A Almost

3 Q. Almost?

4 A. Yeah

5 Q What was different about the last one?

6 A About him riding in my car.

7 Q. Did you see him with a gun that night?

8 A. I seen him with an object that looked like a gun but
9 I'm not sure it was a gun

10 Q. Did you tell the officers you saw him with a gun?

11 A. They asked me did I see him with a gun but I was like,
12 I don't know I seen something black with something red
13 on it That's all I told him. He was like, did I see him
14 with a gun in visible sight I told him that it may could
15 have been a gun.

16 Q Did you admit telling Officer Cain on the tape that
17 Joshua had a black pistol with red trim in his hand; did
18 you say that?

19 A No -- yes, sir

20 Q Sir?

21 A Yes. I told him that he had something black with
22 something red on it

23 Q. No, sir I asked you Did you tell him he had a
24 black pistol with red trim in his hand when he got out of
25 the car?

FORREST - DIRECT

1 A Yeah

2 Q. You did tell the officer that?

3 A Yes

4 Q When did you tell him that?

5 A. They hooked me up to a lie detector test. They were,
6 like --

7 Q. No, sir. I'm saying: Why did you tell them there was
8 a gun and now you're saying you didn't see a gun? Did you
9 see a gun?

10 A. I seen something that looked like a gun, but I'm not
11 sure

12 Q Did you see Mario get shot that night?

13 A. No, sir

14 Q When was the first time you heard about that?

15 A. Well, Tamika called me on my cell phone about 30
16 minutes after I left -- no, about 45 minutes after I left
17 the club. And she was like why you let Joshua kill that
18 boy. I was like what are you talking about. She was
19 like, well, tell Joshua if he need to flee then he can go
20 with me

21 Q. And that's the first you heard about it?

22 A Yeah. She told me that. I told her that I ain't even
23 -- Joshua wasn't even with me at that time

24 Q So you didn't see Joshua before he got to your car?

25 A. Before?

FORREST - CROSS

1 Q. Before he jumped in your car, after the shots?

2 A Oh, no I didn't see him until he jumped in my car.

3 Q. Did you get your car back?

4 A Yes, sir.

5 Q Did it have any bullet holes in it?

6 A. No, sir

7 Q. Did you see anybody running beside the car shooting at
8 it?

9 A No, sir

10 MR GIBBONS Answer any questions Ms Stoney
11 has, please.

12 THE COURT: Cross

13 CROSS-EXAMINATION

14 BY MS. STONEY

15 Q The red and black object that you saw Joshua with,
16 could it have been a hat?

17 A It was all black

18 Q. So it didn't have any red on it?

19 A It had some red on it

20 Q. Could it have been a hat?

21 MS STONEY: May I approach, Your Honor?

22 THE COURT You may.

23 BY MS. STONEY.

24 Q. Could it have been this (displaying)?

25 A I'm not sure.

BROWN - DIRECT

1 Q So, it is possible?

2 A. It is possible.

3 MR GIBBONS. Your Honor, I object.

4 THE COURT Sustained. Disregard that. That

5 calls for pure speculation. Anything is possible.

6 Disregard that.

7 BY MS. STONEY.

8 Q Do you know who killed Mario?

9 A. No, ma'am.

10 MS. STONEY I have no more questions, Your

11 Honor.

12 THE COURT Redirect, if any?

13 MR. GIBBONS Just one, Your Honor

14 REDIRECT EXAMINATION

15 BY MR. GIBBONS:

16 Q. James, when you talk about seeing this black object,
17 where were you in your car when you saw this?

18 A. I --

19 Q Was that at the club or was it at the store?

20 A. It was at the store. I was in the driver's seat

21 Q. So you had already left the club?

22 A Yeah.

23 MR. GIBBONS: Thank you.

24 THE COURT: You may step down. Next witness.

25 MR GIBBONS: Latasha Brown

BROWN - DIRECT

1 THE COURT: May he be excused from his subpoena?

2 MR. GIBBONS: That's fine with the State

3 THE COURT: All right You're excused to go,

4 sir.

5 LATASHA BROWN, having been duly sworn, was

6 examined and testified as follows

7 THE CLERK Have a seat in the witness box, state
8 your full name for the Court, spelling your last

9 THE WITNESS Latasha Brown, B. R. O. W. N.

10 DIRECT EXAMINATION

11 BY MR. GIBBONS

12 Q Latasha, how old are you?

13 A. Twenty-nine

14 Q Are you from Aiken?

15 A. Yes.

16 Q. Lived here all of your life?

17 A. Yes

18 Q. Do you know Joshua Forrest?

19 A Don't know him like that.

20 THE COURT Speak up, ma'am, please

21 THE WITNESS: I don't know him like that

22 BY MR. GIBBONS:

23 Q. You're not close friends?

24 A. No

25 Q. What about Mario Reddish, did you know him?

BROWN - DIRECT

- 1 A Yes
- 2 Q Were you close friends with him?
- 3 A. Yes.
- 4 Q What about Jonathan Thomas?
- 5 A Yes
- 6 Q Close friends?
- 7 A Yes
- 8 Q James Forrest?
- 9 A. No
- 10 Q Tamika?
- 11 A. No.
- 12 Q Do you know her?
- 13 A. Know her Not friends with her.
- 14 Q. Not friends with them. What about Tanika?
- 15 A Just know 'em
- 16 Q So out of the ones I've talked to you about, who are
- 17 the ones you know best of all?
- 18 A. Mario and Jonathan.
- 19 Q. Now, Latasha, were you at the Elks Club a year ago,
- 20 December 4, during the evening hours?
- 21 A. Yes.
- 22 Q Who had you gone there with?
- 23 A. Sherry and some other girl, Sherry, Iesha
- 24 (phonetically), and some other girls
- 25 Q. You weren't hanging out with Tamika and Tanika that

BROWN - DIRECT

1 night?

2 A No.

3 Q You weren't hanging out with Jonathan or Mario that
4 night?

5 A. I mean, we hung out but I didn't go to the club with
6 them

7 Q. But you weren't on a date with anybody?

8 A. No

9 Q. You were just kind of hanging out at the club?

10 A. Yes

11 Q How many people were in the club?

12 THE COURT: Hold on one second Is that the
13 Defendant's mother out there? Just let them in Hold on
14 one second Let Mama come in and the rest of them.

15 (Pause.)

16 THE COURT. Y'all please be on time for the
17 breaks because I don't interrupt court All right.
18 Mr. Gibbons, go ahead.

19 MR GIBBONS: Thank you, Your Honor

20 BY MR GIBBONS

21 Q Latasha, what time did you get to the club?

22 A. About 11

23 Q. And how long did you stay?

24 A I stayed until the club closed

25 THE COURT Ma'am, you're going to have to speak

BROWN - DIRECT

1 up

2 BY MR GIBBONS:

3 Q You can hold that thing in your hand and put it close
4 to your face. It will help you

5 What finally made the party end? What closed out the
6 club?

7 A The club was over

8 Q. Ma'am?

9 A. The club was over.

10 Q It closed at the regular time?

11 A. Uh-huh.

12 Q Did anything happen unusual at the club that night?

13 A. At the end when the club got ready to close when we
14 was getting our coats from the table, Joshua and Tamika
15 was arguing at the back door

16 Q. And could you hear what it was about?

17 A. Some hat and some shoes

18 THE COURT Ma'am, you're going to have to speak
19 up Just pick that thing up and hold it

20 BY MR. GIBBONS:

21 Q. You got a pretty voice

22 THE COURT. You do. Just talk like you're
23 talking to your friends.

24 BY MR. GIBBONS.

25 Q. Hat and some shoes is what you said?

BROWN - DIRECT

1 A Yes

2 Q What kind of argument was it? Was it a physical
3 argument or just hollering?

4 A. Physical

5 Q. Did you see anybody grabbing anybody else?

6 A Yes Joshua had Tamika pinned on the wall

7 Q Had what?

8 A On the wall at the back door of the club

9 Q How? By her arm?

10 A. Well, like up here Like in the chest area.

11 Q Up against the wall?

12 A Yes

13 Q. What did you see happen next?

14 A. Then I seen Mario and Jonathan come over there to try
15 to break it up

16 Q. And did they break it up?

17 A. Yes

18 Q. What happened after they broke them apart?

19 A Then everybody walked outside the club.

20 Q. Did you go outside, too?

21 A. Yes.

22 Q What was going on when you walked out the door of the
23 club?

24 A. When we walked out everybody was just standing by
25 their cars and people was talking. And then I was looking

BROWN - DIRECT

1 for my keys to get in the car, and then Mario and Joshua
2 was having a confrontation

3 Q You said confrontation Were they passing licks or
4 just hollering?

5 A. No Just talking to each other.

6 Q. Loud?

7 A Yes.

8 Q. Who else was around?

9 A Jonathan and Sherry. Everybody that was -- that
10 walked out with us from the club.

11 Q Were there a lot of people hollering and fussing or
12 just the two of them?

13 A No. Just the two was fussing.

14 Q. What happened next?

15 A. Then after they was arguing, Mario got ready to walk
16 away from the cars where we was standing at. And then
17 Joshua was like, you're not going to leave from here
18 tonight

19 Q Who was he talking to?

20 A He was talking to Mario

21 Q. He said what?

22 A. He told him that he wasn't going to leave from here
23 tonight

24 Q What happened then?

25 A. Then Mario got ready to walk away and then Joshua

BROWN - DIRECT

1 fired the gun up in the air, then he fired in the ground

2 Q. Now did you see a gun?

3 A. Yes, I did.

4 Q And did you see where it came from?

5 A Yes

6 Q. Where did it come from?

7 A. He pulled it from the, like, the waistband of his
8 pants.

9 Q. The side? The back? The front?

10 A The front.

11 Q. He pulled it out front?

12 A Uh-huh.

13 Q What did he do with it when he pulled it out?

14 A. Well, the first time he fired it up in the air and
15 then the ground, and then he placed it back And then as
16 Mario was walking away he said something to Mario and
17 Mario turned around to walk back to Joshua And when he
18 walked back to Joshua, when they met up in the face --
19 Mario had hit him in the face, and then they just like
20 wrapped up like this, like they was hugging and then --

21 Q. What did you see happen next?

22 A And then Joshua pulled the gun back out and that's
23 when the gunshots went off. He shot Mario and Mario fell
24 to the ground

25 Q Did you see him pull the gun back out?

BROWN - DIRECT

1 A Yes.

2 Q Did you see where he pointed it?

3 A Yes To Mario In this area up here.

4 Q And you saw him shoot?

5 A Yes

6 Q How many times?

7 A Twice.

8 Q What happened after he shot twice?

9 A Then Mario fell on the ground and then everybody was
10 screaming and then Joshua got in the black car and he sped
11 off. They sped off

12 Q What were you doing?

13 A I was still screaming trying to find my keys. I was
14 looking for my keys

15 Q Did you see Mario move after that?

16 A No

17 Q Did you stay there at the club?

18 A Yes I followed the car to the hospital that had took
19 Mario We followed the car to the hospital

20 Q And the person you saw pull that gun out twice that
21 night, is he sitting in the courtroom?

22 A Yes

23 Q Could you point to him and describe what he has on,
24 please?

25 A He has on a black suit.

BROWN - CROSS

1 Q And you know him as who?

2 A Junior That's his nickname I --

3 Q What's his real name?

4 A I know him as Junior

5 Q. Your Honor, may the record reflect she indicated the
6 Defendant?

7 THE COURT Certainly.

8 BY MR. GIBBONS:

9 Q. Did you ever see anybody else in an argument or around
10 Joshua besides Jonathan and Mario after they were outside?

11 A No

12 Q. There were a lot of people out there, correct?

13 A Yes.

14 Q. Were they over in that same area?

15 A Yes.

16 Q Were they part of that confrontation?

17 A Was they who?

18 Q Were there other people part of that confrontation?

19 A No.

20 Q. Could you tell us anything about the gun, what it
21 looked like?

22 A It was just dark. That's all I know

23 MR GIBBONS: Answer any questions that the

24 Ms Stoney would have

25 THE COURT: Cross

BROWN - CROSS

CROSS-EXAMINATION

1

2 BY MS STONEY:

3 Q. Is it your testimony that you saw Joshua pull a gun
4 from his waistband?

5 A Yes.

6 Q And shot Mario about here?

7 A In the side

8 Q. And you said that he shot twice?

9 A Yes

10 Q. Did he move the gun at any time that he shot twice?

11 A. No.

12 Q. So it was shot in the same place?

13 A. I don't know if the gun was moving. When he shot I
14 started screaming and stuff.

15 Q. And so you actually witnessed him shooting Mario?

16 A. Yes

17 Q. And you were good friends with Mario?

18 A. Yes

19 Q What color car did my client get in to leave?

20 A. I don't know. It was a dark-color car.

21 Q. So it was a dark color?

22 A. Yes.

23 MS STONEY I have no more questions, Your

24 Honor.

25 MR GIBBONS Nothing further from this witness,

1 Your Honor.

2 THE COURT: All right You just sit right there
3 for me, please.

4 We're going to take a break for lunch Madam
5 Forelady, ladies and gentlemen, I've got a two o'clock
6 quick conference call Let's start back at 2:15. Y'all
7 have a pleasant lunch Do not discuss the case among
8 yourselves or let anyone discuss it with you Do not
9 start deliberations When you get back we'll start back
10 about 2:15.

11 Thank you Everybody else remain seated, please.

12 (Jury exits courtroom at 12:32 p.m.)

13 THE COURT: All right. Those in the audience who
14 would like to leave, you're welcome to leave now, please.
15 We're breaking court until 2:15. So there's no need to
16 stick around.

17 Ms Forrest, if you'd like to speak with your
18 son, I'll allow you to do that

19 THE MOTHER: Okay.

20 THE COURT Just -- officer, right here will be
21 fine Officer. Here Just let him see his mama right
22 there Stand over there.

23 UNIDENTIFIED SPEAKER Can I speak to him?

24 THE COURT: Who are you, ma'am?

25 UNIDENTIFIED SPEAKER. His friend

1 THE COURT I'll let him speak to his mother and
2 then you. Y'all can speak to him together. Everybody out
3 of the courtroom, please. Sir Out of the courtroom

4 THE MOTHER: Thank you

5 THE COURT All right. Mr. Gibbons, I want some
6 escort for this lady. There is a crowd of people out
7 there.

8 MR GIBBONS Yes, sir

9 THE COURT. I want her, to make sure she -- is
10 she released from her subpoena? Both of you?

11 MS. STONEY Yes..

12 THE COURT: All right How did you get here,
13 ma'am?

14 THE WITNESS: I drove.

15 THE COURT. All right. I want -- these officers
16 will escort you down If any -- they'll give you their
17 telephone numbers If anybody calls you, says anything to
18 you in any way, you call them immediately so I can deal
19 with it. I mean that now. Has anybody said anything to
20 you yet?

21 THE WITNESS: No, sir.

22 MR. GIBBONS: Sherry didn't ride with you?

23 THE WITNESS Yes She rode with me.

24 MR GIBBONS You want her to go downstairs and
25 wait in our office? Will that be okay?

1 THE COURT. The basement is not a bad place to
2 be. That's where their office is. Let me see the lawyers
3 in chambers

4 (Off-the-record discussion).

5 THE COURT. Who's in charge of the jail back
6 there? I'm giving permission to let the Defendant's mother
7 meet with him. Where would it be suitable for you to do
8 that?

9 THE OFFICER: I can do it back here, Your Honor.

10 THE COURT Ms Stoney, do you need to be with
11 him? You got a place where his mom and his lawyer can
12 sit?

13 THE OFFICER Yes.

14 MS STONEY: It would be all right

15 THE COURT Y'all been through the metal
16 detectors and everything? I'm going to allow that. I
17 want somebody standing outside in close proximity All
18 right

19 Ms. Stoney, the rules are allow dad and mom and
20 you, but the police officer will have to stay in the
21 room. And, Officer, which one of y'all are going to stay
22 in there?

23 THE OFFICER: I will, sir.

24 THE COURT: All right, sir. Whatever you hear,
25 see --

CADE - DIRECT

1 THE OFFICER: I under that, sir.

2 THE COURT -- don't say anything to anybody
3 about it As long as it's nothing untoward, you know what
4 I'm talking about.

5 THE OFFICER: Yes, sir.

6 THE COURT Any objection by the State?

7 MR. GIBBONS: None, Your Honor.

8 (Thereupon, another matter was heard by the
9 Court)

10 (Lunch break taken)

11 THE COURT: Deputy, somebody needs to tell
12 Ms Stoney I need to see her I trust either one of you
13 gentlemen.

14 (Pause.)

15 THE COURT: Thank you. Anything on the record
16 before we bring the jury in?

17 MR. GIBBONS: Not from the State, Your Honor.

18 THE COURT. Ma'am?

19 MS STONEY: No, Your Honor.

20 THE COURT Bring the jury, please.

21 MR. GIBBONS Sherry Cade

22 (Jury enters courtroom at 2:22 p.m).

23 SHERRY CADE, having been duly sworn, was examined
24 and testified as follows:

25 THE CLERK: Have a seat in the witness box.

CADE - DIRECT

1 State your full name for the Court, spelling your last.

2 THE WITNESS: My name is Sherry Cade, C A. D.

3 E.

4 DIRECT EXAMINATION

5 BY MR GIBBONS

6 Q Sherry, where are you from?

7 A From Aiken

8 Q. Have you lived here your whole life?

9 A. Yes, sir

10 Q And do you know Joshua Forrest?

11 A Yes, sir.

12 Q. You know him as a good friend? Acquaintance? Just
13 know who he is? How would you say?

14 A. I know him as a friend.

15 Q How long have you known Joshua?

16 A For about five, six years

17 Q And what about Tamika and Tanika, do you know them?

18 A. Yes, sir

19 Q. Are you close friends with them?

20 A. I know them but not close friends with them.

21 Q. What about Mario Reddish, do you know him?

22 A No -- I was good friends with Mario, too

23 Q He was your friend?

24 A. Yes

25 Q. What about Jonathan Thomas?

CADE - DIRECT

1 A. Yeah, he my baby daddy

2 Q So you know him pretty well?

3 A Yes.

4 Q. Do you recall being at the Elks Club on December 4th
5 of last year in the evening?

6 A Yes, sir.

7 Q. What was going on that night?

8 A Well, when I was fixing to leave out the club I was --

9 THE COURT Slow down a little bit Back up a
10 little bit Slow down

11 THE WITNESS. Okay.

12 BY MR GIBBONS:

13 Q Let's start with when you went to the club, who you
14 were with, that kind of thing.

15 A I was with my friends Tasha, Timothy, April, all of us
16 went out that night

17 Q. What time did you leave home to go to the club?

18 A. About 10:30.

19 Q. Did you go straight there?

20 A Yes, sir

21 Q What was going on when you got there?

22 A. When I got there we was just having fun partying.

23 Q And how many people would you estimate were at the
24 club that night?

25 A. About a hundred. It was a lot of people there

CADE - DIRECT

1 Q. It was full?

2 A Yes, sir.

3 Q What about the parking lot around the building?

4 A Yes, sir.

5 Q Full?

6 A Uh-huh

7 Q Did you stay in the club the whole time until it
8 closed?

9 A. Yes, sir

10 Q And did you see the Defendant in this case there that
11 night?

12 A Yes, sir

13 Q. When did you first see him at the clubhouse?

14 A When I first seen him, I seen him when I was on the
15 dance floor.

16 Q Do you know the approximate time that would have been?

17 A. I would say about one I just seen him. I seen him
18 in the club

19 Q. Well, were you partying that night?

20 A. Yes, sir.

21 Q.. Were you drinking?

22 A. No, sir I don't drink

23 Q You were just there?

24 A Yeah

25 Q. So you saw him around one?

CADE - DIRECT

- 1 A Yeah.
- 2 Q What do you remember about first seeing him, where was
- 3 he?
- 4 A He was standing on the dance floor when I seen him
- 5 Q. Did you see him the rest of the time or did you just
- 6 see him go by that one time?
- 7 A. Just that time and then I seen him when I was about to
- 8 leave out the club.
- 9 Q. What was he doing the next time you saw him?
- 10 A The next time I seen him I seen Junior, Meeka.
- 11 Q. When you say Junior, who are you talking about?
- 12 A. Joshua.
- 13 Q Is he in the courtroom today?
- 14 A Yes, sir.
- 15 Q Could you point him out, please?
- 16 A He is right there
- 17 Q Okay You know him as Junior?
- 18 A Yes, sir.
- 19 Q Okay I didn't mean to interrupt you. You go ahead
- 20 and tell me what you saw Junior do
- 21 A. Okay. When I was fixing to leave out the club, I got
- 22 my jacket I seen him and Meeka in the back of the club.
- 23 She was fussing about a pair of shoes and a hat I seen
- 24 Jonathan and Mario walk over there and try to break it
- 25 up. They were fussing about a hat.

CADE - DIRECT

1 Q When you say they were fussing, was it physically
2 fussing or just hollering or what did you see?

3 A I seen Tamika was hollering at him. She had his shirt
4 and they was trying to break it up, Mario and Jonathan.

5 Q. And did you see anybody throw a glass?

6 A. I didn't see no glass

7 Q A drink?

8 A. No, sir

9 Q So you saw Jonathan and Mario try to break it up?

10 A. Yes, sir.

11 Q Did they break it up?

12 A. Yes, sir

13 Q What happened next?

14 A. Then I just walked out the club.

15 Q. All of who?

16 A I walked out the club. Jonathan and Mario.

17 Q And where did Joshua go?

18 A Joshua, I seen him standing behind a car. Him and
19 some --

20 Q. Was he already outside when y'all left?

21 A. He was out there, too All of us walked out about the
22 same time

23 Q. Everybody?

24 A. Yeah

25 Q Are you talking about 20 people walked out, 30 people

CADE - DIRECT

- 1 walked out, 50?
- 2 A. A lot of people was walking out. Probably about 20.
- 3 A lot of people was walking out at the same time.
- 4 Q. So was the party still going on?
- 5 A. No The club was letting out
- 6 Q. So what was everybody doing?
- 7 A. Just leaving Getting their stuff and leaving.
- 8 Q. Getting in their cars?
- 9 A Uh-huh Everybody was getting in their car
- 10 Q You walked outside?
- 11 A. Yes, sir
- 12 Q Did you see Joshua when you walked outside?
- 13 A Yes, sir
- 14 Q. Where was he?
- 15 A. He was by a white Lincoln
- 16 Q. Just hold on one minute I will show you State's
- 17 Exhibit One
- 18 A. Yes, sir
- 19 Q. What is that?
- 20 A A Lincoln
- 21 Q. Is that the same one you saw him getting in?
- 22 A Yes, sir.
- 23 Q Where was that car parked?
- 24 A. It was like parked, like on the club -- on the side of
- 25 the club, like in the middle of the parking lot.

CADE - DIRECT

1 Q I've got a diagram here marked as State's 20 Would
2 it help you to explain where everybody was, referring to
3 the diagram?

4 A. Yes, sir.

5 Q. All right. Why don't you come down here?

6 A. (Complying.)

7 Q Do you recognize the club?

8 A Yes, sir

9 Q. All right You got to try to stand to the side so
10 people can see where you're pointing at. Where were you
11 when you first saw Joshua outside?

12 A. I was standing by my friend car.

13 Q Put your finger where you were

14 A. Right here.

15 Q Where was the white Lincoln?

16 A Like on the other side of me Right here

17 Q Is there a tree out there?

18 A. Yes, sir

19 Q How far was the white Lincoln from the tree?

20 A. Not too far. I was close by the tree.

21 Q. Is this place the tree?

22 A Uh-huh.

23 Q. Where would the Lincoln have been?

24 A. Right there

25 Q. By the number seven?

CADE - DIRECT

1 A. Uh-huh.

2 Q. All right. Where was Joshua at the car?

3 A. On the driver's side -- no, he was on the passenger
4 side because I was on the other side, on the driver's
5 side.

6 Q What was he doing?

7 A What I seen him doing was he, like, mother fucker, I'm
8 going to kill you tonight, like, and he took the gun

9 THE COURT All right. Slow down Come on back
10 up here

11 THE WITNESS: (Returns to witness stand)

12 BY MR. GIBBONS.

13 Q. Who was around Joshua when you saw him outside?

14 A. I don't know the males that was around him, but I seen
15 it was a couple of fellas. I don't know

16 Q. Did you see Jonathan out there?

17 A I did not see him around Joshua at that time

18 Q But you knew Joshua was at the party?

19 A Yeah I knew he was out there

20 Q. Did you see Mario?

21 A. Yes. I seen Mario.

22 Q. Was he over there at the time?

23 A. Not when I seen him by the car I didn't see him
24 around Joshua.

25 Q. What was Joshua doing? What did you see him doing?

CADE - DIRECT

1 A I seen him reach into his pants. He was, like, mother
2 fucker, I'm going to kill you tonight

3 Q All right. who was he talking to?

4 A Mario.

5 Q How far away were they when he said that?

6 A Not too far.

7 Q Let me walk and you tell me to stop when it's the
8 right distance they were from each other

9 A About right there.

10 Q About eight feet, nine feet?

11 A Yeah

12 Q They were talking to you?

13 A Well, I just heard Junior yell out, mother fucker, I'm
14 going to kill you tonight And Mario --

15 Q Okay Stop right there Did he have the gun out
16 already?

17 A Yes He was taking it out as he was saying it.

18 Q Where did it come from?

19 A Out of the top of his pants

20 Q Do you remember what it looked like?

21 A No, sir. I couldn't tell you the color or nothing

22 Q What did you see him do with it?

23 A He, he started shooting. He shot like two times to
24 the ground.

25 Q Then what happened?

CADE - DIRECT

1 A. Everybody started running And the next thing I know
2 I see Mario turn around and they are hugged up And I
3 heard two more shots and Mario fell to the ground on his
4 back.

5 Q After Mario fell, what happened?

6 A That's when I seen him run back out. He was like
7 Mario, Mario and he let him back down and then I seen
8 Chris Roper and all of them picking up Mario and putting
9 him into the car

10 Q. After you heard the two shots, did you hear any more
11 shots that night?

12 A. No, sir I didn't hear no more

13 Q. And how long after you heard the shots did you see
14 Mario go down?

15 A. Right after I heard the two, the last two shots. He
16 went straight down to the ground

17 Q Did you see the gun after the shots?

18 A. No, sir

19 Q How long between you seeing him pull out and shoot in
20 the air to when you saw him -- to when you heard the next
21 shots?

22 A. It was like, not even a minute because he ran up to
23 him and they hugged up and he shot him two times and he
24 dropped.

25 Q. Did you see anyone else with a gun there that night?

CADE - CROSS

1 A. No, sir.

2 Q. And you saw him leave?

3 A. Joshua?

4 Q. Yes, ma'am.

5 A. Yes, sir. I seen him jump into the white Lincoln and
6 they drove off

7 Q. Did you see anybody passing licks outside or hitting
8 each other?

9 A. No, sir I didn't see that.

10 Q. Do you know who else was in the Lincoln?

11 A. No, sir I don't know.

12 MR. GIBBONS: Answer any questions that the
13 defense has.

14 THE COURT Answer questions of this lady

15 CROSS-EXAMINATION

16 BY MS. STONEY

17 Q. I'm sorry. I'm not sure if I understood you. You
18 said that you saw my client take a gun out of his pants?

19 A. Yes, sir

20 Q. And shoot into the ground?

21 A. He shot two, yes, two shots into the ground. And then
22 he went to Mario and they had two more shots. He dropped.

23 Q. So you did see them in a bear hug?

24 A. Yes, ma'am

25 Q. And you heard shots while they were in the bear hug?

1 A Yes, ma'am

2 Q. Did you ever see Joshua shoot Mario before they were
3 in a bear hug or afterwards?

4 A No, ma'am

5 Q So, it's your testimony that you did see him while
6 they were in a bear hug?

7 A. I seen him shoot him while they was in a bear hug.

8 Q You're friends with Latasha, Latasha Brown?

9 A. Yes, ma'am. I talk to her

10 Q When is it that you gave a statement to the police?
11 Do you remember what date?

12 A. No, ma'am. I'm not for sure

13 Q. How long after the incident happened?

14 A. About two or three days.

15 Q Did you go to them or did they come to you?

16 A I went to them

17 Q Did you go with Latasha?

18 A. Yes, ma'am.

19 Q. And are you still friends with Jonathan?

20 A. Yes, ma'am I have kids by him

21 Q You still get along with him?

22 A. Yes, ma'am

23 MS STONEY: No more questions

24 MR GIBBONS Nothing further from this witness,

25 Your Honor.

1 THE COURT: Thank you. All right Did she come
2 with that other lady?

3 MR GIBBONS. Yes, sir

4 THE COURT. All right You may step down.

5 MR. GIBBONS: Is she excused at this time, Your
6 Honor?

7 THE COURT. You're excused. Everybody else in
8 the courtroom remain in the courtroom.

9 MR GIBBONS I need to check on one other
10 witness at the appropriate time

11 THE COURT Well, you got any more besides that
12 one?

13 MR. GIBBONS: No, sir. That's the last one.

14 THE COURT: Is he outside?

15 MR. GIBBONS. That's what I need to find out.

16 THE COURT Go see if he's out there.

17 MR. GIBBONS: (Complying)

18 THE COURT. Madam Forelady, ladies and gentlemen
19 of the jury, as I understand there's one additional
20 witness perhaps Y'all step back there just a second so I
21 can hold a word of prayer with the lawyers and see what
22 we're doing. I don't want to fuss at them in front of
23 y'all

24 (Jury exits courtroom at 2 36 p m)

25 THE COURT: Mr. Gibbons, what's your pleasure?

1 MR. GIBBONS: Your Honor, I'm trying to find him
2 on the walkie-talkie and see if they had any luck, if they
3 haven't found him yet we'll go forward.

4 THE COURT: Who?

5 MR GIBBONS Investigator Cain is driving to the
6 location

7 THE COURT How many more witnesses do you have?

8 MR. GIBBONS: That's it

9 THE COURT. Ms Stoney, how long is your case
10 anticipated to last?

11 MS. STONEY: I think we should be through by the
12 end of day

13 MR GIBBONS Which is what time?

14 THE COURT Your definition of end of day and
15 mine might be two different things. As I told everybody,
16 I have to be in Denmark at six o'clock to swear in our new
17 representative so we're going to need shut down about 4:30
18 or a quarter to five and I think there was a special
19 request from you, you have a personal matter with the
20 family and also my deputy has a matter scheduled that I
21 won't put on the record.

22 MS STONEY: I believe I have one or two
23 witnesses and that's all.

24 THE COURT Mr Gibbons? We need to fish or cut
25 bait, I guess

1 MR. GIBBONS: Sir?

2 THE COURT We need to make a decision.

3 MR. GIBBONS: Yes, sir. Let me see if he got him
4 on the radio

5 (Pause.)

6 MR. GIBBONS: We'll go ahead, Your Honor.

7 THE COURT: That's it. Do you rest?

8 MR. GIBBONS: Yes, sir

9 THE COURT: All right Ma'am, any motions?

10 MS. STONEY: I'm sorry?

11 THE COURT: He rests That's the end of his
12 case

13 MS. STONEY: Yes. I would like to make a motion
14 for a directed verdict There is no evidence other than
15 the two witnesses that have said that they think they saw
16 him shoot him in the side which is not the wound that
17 killed him. I would move for a directed verdict based on
18 the fact that there is no evidence that my client shot and
19 killed Mr. Reddish

20 THE COURT: Thank you, ma'am. I respectfully
21 deny that There's ample evidence in the record which the
22 jury can obviously conclude that your client was the
23 person who pulled the gun and the trigger and shot him and
24 killed him. That's for the jury to determine. There's
25 ample evidence in the record and I respectfully deny your

1 motion.

2 MS. STONEY Thank you, Your Honor

3 THE COURT: All right

4 MR. GIBBONS: All right. Your Honor, I had a
5 matter The State would suggest or request a curative
6 instruction on two items that shouldn't be coming before
7 the jury I don't know if the defense wants that or not

8 THE COURT: Well, the two items that you're
9 referring to, I assume, is the mention of the polygraph
10 test and also the mention that somebody I think the
11 Defendant had just gotten out of jail, that had been
12 incarcerated or something

13 There was no objection made.

14 MR. GIBBONS: And it may have been strategy to
15 not put it on the record A moot point at this --
16 curative instruction might bring more attention to it than
17 leaving it alone

18 THE COURT: What's your pleasure, ma'am?

19 MS. STONEY Your Honor, that would be my
20 position that it would just bring more attention to it

21 THE COURT. You're welcome to give a curative
22 instruction if desire Please discuss that with your
23 client what a curative instruction is and I will do so if
24 he wishes for me to do so. Which means I will tell the
25 jury they can't consider the testimony where it was

1 mentioned that you had just gotten out of incarceration or
2 one of the other witnesses talking about the polygraph
3 test. That is not proper evidence and it should be
4 excluded from the trial of the case.

5 If your lawyer says that she does not want me to
6 give that instruction because it may just bring more
7 attention to it and accentuate it. That's a strategy
8 decision she makes. So I want to make sure that you
9 concur in that

10 (Pause)

11 THE COURT: What's your pleasure, ma'am?

12 MS STONEY: No, sir. We do not want a curative
13 instruction.

14 THE COURT Thank you. All right. Now, does
15 your client intend to testify?

16 MS STONEY No, Your Honor

17 THE COURT: All right Mr. Forrest, would you
18 please stand and raise your right hand. Let me put you
19 under oath.

20 (Defendant sworn)

21 THE COURT You can sit back down. We've now
22 reached the stage of the trial where obviously you can put
23 up your defense In doing that you have the right to call
24 witnesses, introduce any relevant exhibits that may
25 exist. And you also have the right to testify in your own

1 defense. But you also have the right to claim the
2 protection given to you by the fifth amendment to the
3 Constitution of the United States.

4 That says, in part, quote, no person shall be
5 compelled in any criminal case to be a witness against
6 himself So what that means is nobody can make you
7 testify. You have the right to testify in your own
8 defense if you chose but nobody can make you testify
9 This is a personal right and no one can waive this right
10 except for you.

11 If you decide to testify you will obviously be
12 subject to the same rules that govern all witnesses and
13 you will be subject to be examined and cross-examined on
14 any relevant issue in the case.

15 Mr Solicitor, does he have any convictions that
16 would come under the rules?

17 MR GIBBONS He does, Your Honor. He has an
18 attempted armed robbery in 2005 He has a failure to stop
19 for blue light in 1999. A distribution of crack cocaine
20 in 2005.

21 THE COURT Now what we're talking about,
22 Mr. Forrest, is if you decide to testify not only can you
23 be cross-examined, but these convictions that involve
24 dishonesty or false statements or for crimes punishable by
25 imprisonment for more than one year and if I determine

1 that the probative value outweighs the prejudicial effect
2 of that testimony, then the solicitor would be allowed to
3 introduce your record to only attack your credibility or
4 your believability. That would be the only reason that
5 they could use that

6 So if you decide to testify the decision on your
7 part must be freely, voluntarily and intelligently made
8 with the knowledge of the protections given to you by the
9 fifth amendment of the Constitution

10 If you decide not to testify, I will instruct the
11 jury, I will charge them at the conclusion of the case
12 that they cannot consider the fact that you did not
13 testify when they deliberate your guilt or innocence.

14 I will tell them that there is to be absolutely
15 no prejudice to you because you did not testify I will
16 tell them that they can't even consider the fact that you
17 didn't testify. They can't even discuss it in the jury
18 room and they're not to hold that in any way when they
19 deliberate your guilt or innocence, hold that against you

20 So whether or not you want to testify is up to
21 you Talk to your lawyer, you can talk to your mom, your
22 dad who's in the courtroom which I gave you an opportunity
23 over the last break to talk to you You can talk to
24 whoever you want to, but that decision is entirely up to
25 you.

1 Now my question to you. Do you understand what I
2 have just told you?

3 THE DEFENDANT Yes, sir

4 THE COURT Do you understand the protections
5 given to you by the fifth amendment?

6 THE DEFENDANT Yes, sir

7 THE COURT Do you understand that if you testify
8 your prior convictions may be used against you for
9 impeachment purposes, if I make that determination that
10 the probative value outweighs the prejudicial value? Also
11 understand that you will have the right to testify and
12 they would be able to cross-examine you. Do you understand
13 all of that?

14 THE DEFENDANT Yes, sir

15 THE COURT Do you understand if you don't
16 testify then I'm going to tell the jury that they can't
17 even consider that when they deliberate your guilt or
18 innocence Do you understand all of that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: So you understand what your fifth
21 amendment privileges are, is that correct?

22 THE DEFENDANT: Yes, sir

23 THE COURT Do you have any questions you'd like
24 to ask me about that?

25 THE DEFENDANT. No, sir.

1 THE COURT: Do you need additional time to talk
2 to your lawyer about whether or not you want to testify?

3 THE DEFENDANT: Just a second.

4 THE COURT: Absolutely.

5 (Pause Defendant conferring with counsel.)

6 THE COURT: Sir?

7 THE DEFENDANT: I'm not going to testify.

8 THE COURT: All right, sir Okay. Ready to call
9 your first witness?

10 MS STONEY: Yes, sir, Your Honor

11 THE COURT: All right Bring the jury in,
12 please

13 (Jury enters courtroom at 2:48 p.m)

14 THE COURT The State has rested which means they
15 have called all their witnesses. It's now time for the
16 Defendant to present whatever witnesses they deem
17 necessary Once they complete that then the State will
18 have the opportunity to present any reply testimony.
19 We'll see where we are if that's the situation

20 It's ten until three I have to leave today at
21 about 4:30, quarter to five. I have to be in Denmark,
22 South Carolina to swear in our new representative over
23 there. One lawyer had a personal request that she had a
24 child or something, near five or 5:30. I'm going to honor
25 that for her as well

GRIMES - DIRECT

1 So we're going to probably work today until
2 4 30ish. What I'm hoping to do is be able to complete all
3 the testimony today and then come back tomorrow and have
4 the arguments and the charge and let you deliberate
5 tomorrow. If that happens, which I think it will, then
6 I'm going to excuse the 14 of you for the balance of the
7 week. I won't make y'all come back for any more trials
8 that we may have. Y'all put in a week's work. We'll see
9 how that goes. I'm not sure we'll have any more trials
10 but you all will be excused for the rest of the week so
11 that will give you a little break.

12 Okay. You may call your first witness.

13 MS. STONEY: I would call Tiffany Grimes.

14 THE COURT: What's her name?

15 MS. STONEY: Tiffany Grimes.

16 THE COURT: Tiffany Grimes, Mr. Whittle.

17 TIFFANY NICOLE GRIMES, having been duly sworn,
18 was examined and testified as follows.

19 THE CLERK: Have a seat in the witness box.
20 State your full name for the Court, spelling your last

21 THE WITNESS: Tiffany Nicole Grimes G. R. I. M.
22 E. S.

23 DIRECT EXAMINATION

24 BY MS. STONEY.

25 Q On the night of December 4th, 2005, where were you?

GRIMES - DIRECT

- 1 A. At the Elks Lounge.
- 2 Q. What time did you arrive?
- 3 A. I arrived there about 12 30.
- 4 Q. And who did you arrive with?
- 5 A. Myself and a friend of mine.
- 6 Q. What was the friend's name?
- 7 A. Carnelius Mackie.
- 8 Q. And how long did you stay?
- 9 A. Until it was over
- 10 Q. Do you know my client, Joshua?
- 11 A. Yes
- 12 Q. Joshua Forrest?
- 13 A. Yes, I do.
- 14 Q. Do you know Mario Reddish?
- 15 A. Huh-uh.
- 16 Q. You did not know him?
- 17 A. Huh-uh
- 18 Q. What about Jonathan Thomas?
- 19 A. No
- 20 Q. Tamika Bussey Campbell?
- 21 A. No.
- 22 Q. What about Tanika Roberson?
- 23 A. Tamika Campbell?
- 24 Q. Tamika Campbell
- 25 A. Yes

GRIMES - DIRECT

- 1 Q. And what about Tanika Roberson?
- 2 A. Yes.
- 3 Q. Are you friends with Tamika and Tanika?
- 4 A. We're not friends, acquaintances.
- 5 Q. And while you were there, did you see my client?
- 6 A. Yes, I did.
- 7 Q. And when did you see him arrive?
- 8 A. He was there when I got there.
- 9 Q. Okay And did you see an altercation with him and
- 10 Ms. Campbell?
- 11 A. Yes
- 12 Q. And can you tell us what happened from what you saw?
- 13 A. He was just sitting down in the club and she was just
- 14 kind of like aggravating him, taking his hat off, trying
- 15 to dance on him and stuff while he was sitting down But
- 16 he really wasn't paying her no attention, but she was just
- 17 trying to make herself seen
- 18 Q. Did it eventually turn more violent?
- 19 A. It did. I didn't see that part, he was trying to get
- 20 rid of her but she was steady hanging around
- 21 Q. And what time did you leave?
- 22 A. About two o'clock, I believe it was.
- 23 Q. And did you see the altercation that ended up in Mario
- 24 Reddish dying?
- 25 A. No, I didn't.

GRIMES - CROSS

1 Q So you weren't there at that time?

2 A I was there, but I didn't see it.

3 Q. Did you hear any gunshots?

4 A. Yes.

5 Q How many gunshots did you hear?

6 A Three.

7 Q Do you know where my client was in relationship to
8 Mario?

9 A. No, I don't

10 Q So you said you heard three gunshots?

11 A Yes

12 Q. Do you know if -- who had a gun?

13 A. No, I didn't see any gun.

14 Q Okay. Did you see anyone kill Mario?

15 A No, I didn't

16 Q So you don't know who killed him?

17 A No

18 MS. STONEY I have no more questions

19 CROSS-EXAMINATION

20 BY MR GIBBONS

21 Q Ma'am, when is your birthday?

22 A. 10-2-76

23 Q. And are you the same Tiffany Grimes who in 1999 in
24 Aiken County was convicted of eight counts of fraudulent
25 check?

1 A. That's me

2 Q Are you the same Ms Grimes who in May of 2000 had
3 seven counts of bad checks?

4 A. That's me

5 Q And then in June of 2004, were you convicted of
6 shoplifting in Aiken County?

7 A. Yes

8 Q And then in September of 2002, were you convicted of
9 shoplifting in Augusta?

10 A Yes.

11 MR GIBBONS Thank you. Nothing further.

12 THE COURT: Anything else, ma'am?

13 MS. STONEY No, Your Honor

14 THE COURT: You may step down. Can she be
15 excused?

16 MS STONEY: Yes.

17 MR. GIBBONS: Yes, sir.

18 THE COURT: Ma'am, thank you for coming Next
19 witness

20 MS. STONEY: Your Honor, at this time the defense
21 rests

22 THE COURT Anything in reply?

23 MR GIBBONS No, sir

24 THE COURT Well, that was quicker than I

25 thought Y'all step back to your jury room We may keep

1 going. Don't discuss the case

2 (Jury exits courtroom at 2:56 p m.)

3 THE COURT All right. Any motions by the
4 State?

5 MR GIBBONS No, sir

6 THE COURT. By the Defendant?

7 MS. STONEY Only to renew my motion for a
8 directed verdict.

9 THE COURT: All right. For the same reason I
10 respectfully deny the same

11 (Pause)

12 THE COURT: All right It's just three o'clock.
13 Do you all want to argue and charge?

14 MS. STONEY Your Honor, I'd love to have some
15 time to regroup

16 THE COURT: Well, normally I would say, no, it's
17 time to move but I have just promised this young man I
18 would do this this afternoon and I can't -- plus he'll be
19 voting for me in two years.

20 MR GIBBONS. They would have to deliberate.
21 There's no way we'd finish that

22 THE COURT That's right. That's the whole point.

23 (Pause. Off-the-record discussion.)

24 (Jury enters courtroom at 2:59 p.m)

25 THE COURT. The hardest part of this job is

1 trying to judge times We are missing somebody.

2 (Pause.)

3 THE COURT When you wear that gamecock sweater
4 that's the respect that you get

5 (Another juror enters courtroom)

6 THE COURT. The hardest part is trying to judge
7 times and schedules and everything We're finished with
8 all of the testimony What's left now is the arguments
9 and the charges which if we did that this afternoon you'd
10 probably wouldn't get the case until around five or 4-30
11 and that's going to put you into the night.

12 I've got to swear this guy in over in -- new
13 House member from Bamberg. The House and Representatives
14 and the Senators vote on my job every six years so I
15 better get over there And he's having a big ceremony, so
16 I just can't stand him up.

17 So here's what I think I'm going to do if it's
18 okay Let's break for the day We'll start back at 9-30,
19 okay, in the morning, ten o'clock. Which one suits y'all?

20 FOREPERSON OF THE JURY. The earlier the better.

21 THE COURT. I'll have some more breakfast. What
22 do you want? Doughnuts good?

23 FOREPERSON OF THE JURY. The muffins were the
24 best

25 THE COURT Coffee and depending on how we go

1 tomorrow, I may buy you lunch if we get to the point where
2 we're just starting to deliberate and just getting case
3 around lunchtime, I will send out for your lunch so you
4 won't have to break for that and we'll finish probably,
5 depending on how y'all do tomorrow, I'm going to excuse
6 you all, like I said, for the balance of the week So
7 that will conclude your jury service.

8 So at this time I'm going to excuse you for the,
9 balance of the evening Once again, I remind you, please
10 don't discuss the case with anyone. Don't let anybody
11 discuss it with you. There's a couple of newspaper
12 reporters, there may be something in newspaper. I didn't
13 look at it this morning. I would ask you not to read it
14 because we want to try it just on what's in here.

15 I thank you. Y'all have paid very close
16 attention I enjoyed being with you And I look forward
17 to seeing you in the morning. We'll wrap up our part
18 tomorrow and turn it over to you for your discussion.
19 Have a very pleasant evening Everybody else please
20 remain seated. Thank you.

21 FOREPERSON OF THE JURY. Thank you

22 (Jury exits courtroom at 3:02 p.m)

23 THE COURT. Any exceptions from the State or the
24 Defendant on my remarks to the jury?

25 MR GIBBONS. None, Your Honor.

1 MS. STONEY. No, Your Honor.

2 THE COURT: All right. I'm going to ask everyone
3 in the courtroom to remain seated for just a few minutes
4 until the security clears the jurors out of the
5 courtroom. Let me know when that is done and then we'll
6 excuse the balance of you

7 MS. STONEY: Your Honor, he would like to speak
8 with them.

9 THE COURT. Give him five minutes with his mom
10 and daddy, with you in there or whoever is in there, Mom
11 and Dad.

12 END OF DAY'S PROCEEDINGS

13 * * * *

14 ON WEDNESDAY, DECEMBER 6, 2006 AT 9:30 A.M.:

15 THE COURT: Ms. Stoney, are you ready to proceed?

16 MS STONEY. Yes, sir, Your Honor.

17 THE COURT. Are you ready, Mr. Gibbons?

18 MR GIBBONS. Yes, Your Honor

19 (Jury enters courtroom at 9:31 a.m.)

20 THE COURT. Good morning.

21 FOREPERSON OF THE JURY. Good morning.

22 THE COURT. How are y'all? Did you have a
23 pleasant evening?

24 THE JURY. Yes.

25 THE COURT: We're ready to do final arguments and

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 once that is done then I will charge you or instruct on
2 the law If at any time during the final arguments or
3 during my instruction if you need a break, I try not to
4 break during those times but I'll give you an opportunity
5 between the arguments and my charge For an emergency
6 break, obviously stop everything. So at this time,
7 Mr Gibbons

8 MR. GIBBONS: I'm ready, Your Honor.

9 THE COURT. You may proceed Are you requiring
10 opening in full, ma'am?

11 MS STONEY. Your Honor, I'm ready to proceed

12 THE COURT No, ma'am. The State goes first and
13 then you go and then the State goes last. Are you
14 requiring him to open in full?

15 MS STONEY. No, Your Honor. I'll waive it.

16 THE COURT All right. You may go then, ma'am.

17 CLOSING STATEMENT

18 MS STONEY. Good morning, ladies and gentlemen.
19 Once again this is too important for my client for me to
20 forget anything so I'm going to make sure that I have
21 everything in front of me.

22 I appreciate you coming here today and the
23 beginning of the week and the whole week that you've been
24 here. This is very important to my client and I know that
25 the State told you, it's very important to the State and

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 I'm sure it is

2 It's important to Joshua He is on trial here.

3 If he's convicted, he'll be a convicted murderer

4 Obviously it is very important to him also

5 I want to start with how Joshua came to be in the
6 custody of the police. Investigator Cain told that you he
7 called Joshua's mother and told her that he was looking
8 for him She said she'd get ahold of him and get him to
9 him. And she did. He didn't run He didn't hide He
10 actually came to the police, turned himself in and
11 cooperated completely with the investigator. And the
12 investigator testified to that.

13 He gave no inconsistent statements to the
14 investigator. He told them exactly his version of the
15 events and never waivered from it. Didn't ask for a
16 lawyer He didn't refuse to give any statements. He
17 completely cooperated.

18 Joshua stated that a friend dropped him off at
19 the club and stated that Tamika Bussey a/k/a Campbell, I'm
20 not sure how those two fit together but some people call
21 her Tamika Bussey and some people call her Tamika
22 Campbell, an ex-girlfriend of his started a fight with him
23 while he was in the Elks Club. He said that she snatched
24 his hat off his head and threw a drink in his face,
25 slapped him, followed him outside when he tried to leave

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 and then her two friends Mario Reddish, the victim, and
2 Jonathan Thomas, followed them outside also

3 He said that Mario hit him and showed his lip to
4 the investigator. And there is a picture of that He
5 tried to leave. They were surrounding him. He couldn't
6 leave, couldn't get in a car, couldn't go away. And Mario
7 caught him in a bear hug So he said at that point he
8 heard gunshots ring out and Mario fell. He let go of him
9 and he ran. He got in the car and he left He said he
10 got in a white Lincoln driven by James Forrest, his
11 cousin, and they left.

12 Rather than go one by one on each of the
13 witness's testimony, I'm going to go more of a
14 chronological order I think it makes a little bit more
15 sense that way and examine some of the portions of the
16 similarities of the witnesses and what the witnesses are
17 saying.

18 Everyone agrees that this happened at the Elks
19 Club. Everyone agrees that the parking lot was full, the
20 club was full. When Mario was shot, everyone was
21 leaving. Cars were coming and going People were coming
22 and going.

23 When each person arrived and who they arrived
24 with is a little bit difficult understanding that. Some
25 people say, well, Tanika, the first person who came up to

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 testify as an eyewitness. She said she came with Tamika
2 who is Tamika Bussey and with Timothy Johnson. We didn't
3 get a time that she came. At least I don't believe so.

4 Tamika said that she came with Tanika and Timothy
5 Johnson but also that she arrived with Mario Reddish and
6 Jonathan Thomas and Nicole. We don't know who those
7 individuals are, and that they arrived about 12 30.

8 Latasha said she came with Sherry. Nobody else.
9 Sherry said she came with Latasha, Tina, and April but
10 also Mario and Jonathan came in a separate car. They came
11 from another club to this club so obviously this whole
12 group of people were together. Tamika, Tanika, Jonathan,
13 Mario and also Sherry and Latasha

14 There were other people in the group but these
15 were the main people that were in the group. Now there's
16 a little bit of disagreement as to Tamika's part in the
17 fight. Tanika, her friend, says that she, Tamika, was
18 carrying on. She told her not talk to Joshua, that she
19 had broken up with him. She didn't want anything to do
20 with him and she didn't want Tanika to have anything to do
21 with him either. She said Tamika grabbed the hat off of
22 his head, threw a drink in his face and Joshua left.
23 Tamika followed him and was yelling at Joshua. That's all
24 she knows about the fight.

25 Tamika who is, by her own testimony, Joshua's

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 ex-girlfriend, said they had a calm argument. She
2 admitted throwing the drink but only because he was
3 bothering her, not because she was bothering him James
4 Forrest, his cousin, says that he saw some arguing,
5 slapping, and also saw her throw a drink in his face

6 Latasha says she saw a physical argument And
7 Sherry says she saw some fussing. So apparently different
8 people saw different things when it came to the fight
9 between Tamika and Joshua.

10 As far as Mario and Jonathan's involvement,
11 Tanika saw Jonathan hit Joshua inside the club. That's
12 what she testified to And she also saw him find Joshua
13 trying to get in his car and at that time Jonathan hit him
14 again.

15 She also testified that she saw Mario swing at
16 him. Tamika, who apparently started the entire
17 confrontation and claims to be Mario's best friend, said
18 that she saw Jonathan fighting Joshua. She never saw
19 Mario doing anything

20 Latasha Brown claims not to have seen Jonathan or
21 Mario, either one, hit Joshua That Jonathan was trying
22 to break it up and so was Mario. They were both trying to
23 break up the fight between Tamika and Joshua She did,
24 however, see Joshua shoot. So she was close enough to see
25 him shoot but she wasn't close enough to see Jonathan and

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 Mario hit Joshua in the face.

2 Sherry Cade didn't see Jonathan or Mario hit
3 anyone either. Everyone else agrees except for Sherry and
4 Latasha that Mario and Jonathan both hit Joshua except
5 Sherry Cade and Latasha and they were close enough to see
6 Joshua shoot. So how could they have seen that and not
7 seen the hitting? I'm not sure.

8 There were also statements about the car which was
9 really confusing. Tanika said that Joshua left in a white
10 car but in her statement to the police she said it was a
11 black car. Tanika said that it was a white car but in her
12 statements to the police she said it was a dark colored or
13 blue car, black or blue. Latasha said it was a white car
14 but in her statement she said it was a dark car. She said
15 that Sherry pointed out to her that the car was white.
16 Sherry who went to the police three days later with
17 Latasha said it was a white car. And James testified that
18 he drove a white car and drove Joshua away from the scene.
19 So apparently the car was white. Where the dark car comes
20 in, I have no idea. Apparently people weren't seeing what
21 they thought they were seeing.

22 Only two people claim to have seen my client
23 shoot Mario. One of them is Sherry Cade, the other is
24 Latasha Brown. But who are these people? Latasha Brown
25 is friends with Jonathan and Mario. She testified to

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 that Sherry is the mother of Jonathan's child. They
2 were both very close to Jonathan. They were both very
3 close to Mario, the victim. They rode together to the
4 Elks Club, by their own testimony. They rode together to
5 the police and they obviously discussed the case at some
6 point because Sherry pointed out that it was white car.
7 So they had talked.

8 And where is Jonathan Thomas? He was obviously
9 the closest person to what was going on. He was involved
10 in the hitting of Joshua. He was involved -- right beside
11 Mario, right beside Joshua. Yet he's not here. Where is
12 he? He should be the one who should shed the light on
13 what really happened, but he's not here to testify.

14 Now everyone claims to have heard gunshots.
15 Tanika Roberson, the first person who testified, said she
16 heard four bam-bam bam-bam. The second person to testify
17 was Tamika Bussey also known as Tamika Campbell. She
18 claims to have heard two gunshots. James Forrest claims
19 to have heard three gunshots. Latasha Brown claims to
20 have seen three gunshots. First shooting in the air,
21 shooting on the ground and then she claims that Joshua
22 shot Mario in the side. Sherry Cade claims to have seen
23 four. Two shots to the ground, no shots in the air and
24 then two shots, right here, into Mario's side. Tiffany
25 Grimes claims to have heard three shots. So there's

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 different testimony as to how many shots was seen or
2 heard.

3 As for the gun, James Forrest -- my client
4 Joshua, his cousin, says that he saw a black and red
5 object. The hat that was found at the scene is a black
6 and red object When I asked him about whether or not it
7 could have been that, he was unsure, he didn't know
8 whether it was that or not

9 Sherry claims to have seen a gun in Joshua's
10 hand. She also says that Joshua and Mario were in a bear
11 hug which is exactly what Joshua said that they were in, a
12 bear hug. Now I don't know how difficult it would be to
13 see someone shooting someone if they were that close in a
14 bear hug, but it seems like it would probably be pretty
15 difficult Latasha also says the same thing She saw my
16 client in a bear hug with Mario and she saw him shoot him
17 in the side

18 Now I have given you reason to doubt Sherry Cade
19 and Latasha Brown because they both are friends with
20 Jonathan and with Mario But even if you believe
21 everything that they said, I propose to you that Joshua
22 still could not have killed Mario because they -- when
23 they were in a bear hug, Dr. Ross had testified that the
24 shot that killed Mario was not a contact shot but one that
25 came from the side and went through. It was not something

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 that came forward

2 And both Sherry and Latasha said that they saw
3 him get shot in the side - Dr. Ross told you that was not
4 the fatal shot The only shot that killed Mario Reddish
5 came from the side and it was, by Dr Ross's testimony,
6 not a contact shot

7 So if -- even if you believe that they saw him
8 shoot Mario while they were in a bear hug, I don't see how
9 it's possible for a shot to have come, non contact, from
10 the side while they were in a bear hug It just doesn't
11 make any sense to me.

12 And like I said at the beginning, the one thing I
13 want you to remember is the credibility of the witnesses.
14 These people all knew each other They still know each
15 other Most of them still hang out with each other.

16 Sherry testified she still knows Jonathan She
17 still keeps up with him. Latasha says that she also knows
18 Jonathan. We don't know where Jonathan is but they
19 obviously have been together Latasha and Sherry have
20 talked about their testimony and their stories are pretty
21 consistent. They were pretty consistent with each other

22 Keep in mind that your duty is to find beyond a
23 reasonable doubt that my client killed Mario Reddish
24 Reasonable doubt -- the State will tell you what
25 reasonable doubt is. The Judge will tell you what

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

1 reasonable doubt is. What the Judge tells you is what you
2 need to listen to, what you need to use when you're
3 deliberating. But I can tell you reasonable doubt is not
4 a magic formula

5 You are assumed to be reasonable people. And if
6 you have a doubt, it's presumed to be reasonable. Now for
7 an example, if you decide that my client couldn't possibly
8 have shot anyone because he has short hair, that's not
9 reasonable. But if you decide that it was impossible
10 based on the testimony for him to have shot and killed
11 Mario Reddish because of the contact, that would be a
12 reasonable doubt.

13 Now I know that you would love for my client to
14 sit up here and tell you, I didn't do it. But you cannot
15 consider, and the Judge will tell you, you cannot consider
16 his failure to testify as -- as a basis for his guilt. He
17 does not have the -- he doesn't have the burden of proof.

18 The State has the burden of proof here. They
19 have to prove beyond a reasonable doubt that Joshua killed
20 Mario Reddish. My client doesn't have to prove anything.
21 He is presumed innocent until the 12 of you decide that he
22 is not

23 They found no gunshot residue on my client
24 because they didn't test it. Now they've explained why
25 they didn't test it and it sounds like a reasonable

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 explanation to me But they also took his clothes and
2 said there was blood on his clothes. They didn't come
3 back with any testimony that it belonged to the victim.

4 If they had found that the blood belonged to the victim,
5 I'm sure they would have told us but they didn't do that

6 Now when I'm finished here the State's going to
7 stand up and they're going to be able to tell you their
8 version of what happened I'm not going to be able to
9 stand back up here and say anything. I mean, there will
10 be things that I'm sure that the State will say that I'm
11 going to want to go, wait, no. I can't do that Once I'm
12 done, I'm done So I'm going to have to depend on y'all
13 to say, what is it that she would have said to that
14 because I don't have any authority to get up here and tell
15 you

16 Again, I thank you very much for your service I
17 know this wasn't the most fun thing to do I'm sure you'd
18 much rather be doing something else It's very important
19 to my client and to the State for someone to come in here
20 and do exactly what you're doing. And I appreciate all of
21 y'all serving Thank you.

22 CLOSING ARGUMENT

23 MR GIBBONS: May it please the Court,
24 Ms Stoney, ladies and gentlemen of the jury, I do want to
25 thank you for your service and your attention. I've

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 watched you and you've paid attention, you've listened.

2 And it hasn't always been an easy thing to hear

3 And I believe as I told you in my opening remarks
4 there were going to be different things that different
5 people saw. Different things that people remember
6 differently. But there has been no testimony of anyone
7 else bringing a gun to a fist fight but that man sitting
8 right over there, Joshua Forrest.

9 Now, the Judge is going to tell you about
10 credibility of witnesses. He's going to tell you what the
11 legal advice is about examining a witness's statement and
12 testimony. And I believe he's going to tell you that you
13 can believe all of what a witness says, part of what a
14 witness says or none of what a witness says. You can take
15 into consideration if the witness had an opportunity to
16 see what they're talking about, how far away they were,
17 what the conditions were, but the very important thing
18 he's going to tell you you are to consider or can consider
19 is who might have a reason or a motive to tell you
20 something that they're saying. Is there something behind
21 what they're telling you. And I think in this case since
22 it is a credibility case, it really is, I think that that
23 is a key factor in this case.

24 Now in a few hours this case is going to end for
25 you, one way or the other. You'll walk in here, give your

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 verdict, put your badge in the box and go on about your
2 life.

3 But what about the witnesses in this case? As
4 we've heard from testimony, this was a group of friends.
5 This is a group that knew each other, saw each other, hung
6 out with each other on a regular basis. This is a group
7 of people that are going to have to go back into that
8 community, see family members of both sides, see friends
9 of both sides. It's not an easy thing to come in here and
10 say what a friend of yours did in front of his mother, in
11 front of their other friends, and then have to go home
12 after this is over for you folks and see that person at
13 the grocery store, see that person maybe at church.

14 Is there a reason why Tamika and Tanika didn't
15 want to say the things that they said the day this
16 happened? That's for you to determine. They told you
17 they are associated with Mr. Forrest's side of this
18 situation. And right when this happened, as you saw when
19 I asked them about their statements they gave before,
20 yesterday they didn't mention a gun, seeing a gun.

21 But when I confronted them and said, did you tell
22 the officers you saw one back when this happened. Well,
23 yeah, I said that but I didn't. That's for you to decide
24 why that difference is there. But is it reasonable that
25 maybe they're thinking about next week or next month or

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 where they have to live and what they have to confront on
2 a regular basis? That's something I ask you to consider.

3 Now, there are some differences in this case.
4 But there are a lot of consistencies. Tamika. Well she
5 went there with her friend Tanika. I don't know how they
6 keep the names straight. I can't keep their names
7 straight. I'm glad one of them was pregnant so I can kind
8 of keep straight her name in this

9 But let's go back and examine what they did. She
10 broke up with him. Has an ex-relationship. She's with
11 her friend. They go to a club. He comes in the club and
12 he's drinking drinks with her friend

13 Now she broke up with him, but that doesn't mean
14 that she wants her best friend hanging out with him. Is
15 it reasonable that she got upset? Is it reasonable that
16 something like a hat or a pair of shoes might have got
17 someone that upset? That's for you to determine.

18 Jonathan and Mario. Several of the witnesses
19 were very clear that Mr. Forrest put his hands on that
20 young lady during the course of that argument. One or two
21 of them even said jacked her up by her neck or by her
22 shirt. Her two male friends are there. Is it reasonable
23 that they jumped in to separate the two? Is that
24 reasonable?

25 Now I've talked about the statements changing and

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 people -- why they might say what they say And I've told
2 you about people having to return to that life after this
3 case is over.

4 Now we've heard there were a lot of people at
5 this club that night. And I asked the officers, if you
6 will remember I said, well, how many came forward? How
7 many were you able to get a statement from? Just a
8 handful out of all those people there that night. Not
9 everyone that saw what happened came forward and wanted to
10 talk about it.

11 Additionally, you heard Mr Cain on that little
12 piece of tape that did work and on the sheet he showed the
13 Defendant in this case, people have a right to remain
14 silent. People have a right not to get involved Even
15 people that give statements, they don't get locked up.
16 Nothing says they're going to come in to court and
17 testify.

18 A lot of people that saw this aren't here sitting
19 in that chair, but this is real life. You know, we've
20 kind've been spoiled by television. At the end of the
21 episode in a court case all the strings are tied up The
22 audience knows every detail. There is no curiosity factor
23 left as to who did what, when they did it, and how they
24 did it. Everything is revealed at the end of the show and
25 that makes it a good show.

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 But this isn't a show. This is real life. And
2 curiosity in a normal person is going to say, well, I want
3 the know this, I want to know that, I want to hear from
4 this, I want to see that That's natural But this is
5 real life and this is a courtroom. And we operate under
6 certain rules Certain evidence is admissible. Certain
7 evidence isn't admissible.

8 And the Judge is the gatekeeper of the evidence
9 The State does have the burden of proof in this case We
10 bring the evidence in that we're able to collect, we're
11 able to find, that we're able to take statements back. We
12 present it to the jury.

13 If the State thinks some evidence ought to go in
14 and it doesn't comply with one of the rules, it doesn't
15 come in. The Judge stops it Just like the statements,
16 the written statements of Tanika and Tamika We don't
17 allow under our system people to come in and give a
18 statement and go about their way and then we come to court
19 and hand the jury the statements and they read it and make
20 their decision.

21 This is a place about rules. You are allowed to
22 hear people sit in that chair and except for a very few
23 circumstances or exceptions, people have to sit in that
24 chair and tell you their story It's not about having a
25 piece of paper You have to hear it from their mouth.

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 That's one of the rules That's how this system
2 operates. And as I said before, it could be nice to say
3 what if we could, what if we did, I wish we could, I wish
4 we did

5 This is what the rules require And you've heard
6 the evidence that the State thinks is admissible in this
7 case and available in this case. And that's the evidence
8 that you're going to have to deal with. But I will also
9 submit to you that just because all of your curiosity
10 isn't satisfied doesn't mean that the elements of this
11 crime have not been proven through witnesses that you've
12 seen and the evidence that you've seen because it speaks
13 for itself

14 There are some pieces of evidence that you can
15 rely on because they don't have outside influences coming
16 in. They don't have motives And that's the things that
17 Dr Ross found That's the things that the investigators
18 found at the crime scene And the things that you can
19 determine just by common sense exist because you can see
20 the big picture at this point

21 Now Dr Ross came in She didn't go to the crime
22 scene She doesn't live in the community. She deals in
23 science and medicine. But I submit to you, this little
24 mark on this paper that represents a contact gunshot wound
25 to the lower abdomen of Mario Reddish speaks more about

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 who did this crime than anything you've heard or just
2 about anything you've seen

3 I don't think there's been any testimony from
4 people that saw what happened, that this shooting took
5 place at any other time than when the Defendant in this
6 case was wrapped up with his arms to his sides by Mario
7 Reddish. Why do I say that? Well, he himself said he was
8 wrapped up, and then there were shots and Mario slumped to
9 the ground, tearing his shirt.

10 Now if these arms are on either side of Joshua
11 Forrest, holding his arms to his side, and Joshua reaches
12 into his waistband and pulls that gun out, it's going to
13 be about right there with the muzzle against Mario
14 Reddish's stomach. And pulls the trigger

15 What was the angle? Dr Ross said straight
16 through, slightly up. When you stand in front of that
17 hole and you make a hole going straight through, it would
18 have had to have gone through Joshua. Somebody would have
19 had to stuck a gun clean through his body and put the
20 muzzle up against Mario Reddish's stomach and shot that
21 shot.

22 What is more reasonable? That he did have that
23 gun in his waistband, and that he did pull it out in the
24 middle of the fist fight, and that he did put it against
25 Mario's stomach and pull the trigger.

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 What about the second shot? Well, we have three
2 shell casings collected. And you'll have them back in the
3 jury room. Look on the back of each one of them. Each
4 one of them is the same caliber, has the same stamp on the
5 back of it. Three shots.

6 Well, hugging up, shot in the stomach, let go,
7 falling back, another shot. He clips both lungs.
8 Dr. Ross said he hit the spinal cord. You're not going to
9 move after that. You're going to fall.

10 What is reasonable? It's up to you to decide
11 that. But I don't think there is any way -- there is no
12 testimony anybody ran up in between the two of them,
13 reached in and stuck a gun in and shot Mario.

14 So I think that that hole right there speaks
15 volumes in this case. And it doesn't lie. It doesn't
16 change. It is what it is. There is nobody, you know, on
17 the grassy knoll, 300 yards away, shooting him with a
18 contact wound. There is no bullet that takes a detour,
19 turns around and hits somebody. You can rely on
20 Dr. Ross's testimony about that.

21 Another thing I want you to look at, items two
22 and three. You're going to have them back in your jury
23 room. Item two, right there on the ground, gold teeth,
24 who the witnesses said belonged to Mario. Item number
25 three, shell casings. That's where it happened, right

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 there

2 Now what else did we find out from Mr Adams?

3 Well, James Forrest got up there. And he did want to --
4 when I confronted him about it, he did say that he saw
5 something that looked like a gun when Joshua got out of
6 the car down the street at the Golden Pantry after they
7 had driven away That was his statement.

8 Well, the defense got up and showed him this hat,
9 a black hat Maybe you got it confused with the hat.

10 Well the gun was at the Pantry and the hat was at the
11 crime scene There is no way that was a hat in his hand,
12 because the hat was still back at the place that he had
13 just left and run away from

14 Let's look at some of the testimony that you did
15 hear And you're the judges of the facts You heard the
16 same thing everyone else heard And if you remember
17 something different from me, please believe what you heard
18 because I don't always hear the thing the right way
19 either. But there is a record being made of everything
20 that was said during the trial as it's being said. But
21 you rely on what the facts and what you heard that came
22 out during the testimony, but there were a few things that
23 I thought jumped out at me

24 Tanika. What did she say Mario was doing that
25 night? Trying to break up the argument. She said that.

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 I didn't have to pull that out of her. She came right up
2 with that. What did she say that she told the officers
3 that day? I have that. She said that he pulled out a
4 black object and shot it in the air, then he and Mario got
5 into a tussle and she heard more shots

6 Tamika Mario was trying to break it up. She
7 said she did see a gun but she didn't know who had it.
8 Who was having the hottest argument? I asked her that.
9 Jonathan and Joshua. James Forrest. Now Joshua did give
10 a story to the officer and I think if you'll remember what
11 he said through Investigator Cain is that he was running
12 away when he jumped in the car because he heard shots and
13 as they were driving off someone was running along
14 shooting at the car. And remember, he gave that statement
15 shortly after this happened. Not after he had heard all
16 of this or seen all of this, shortly after it happened

17 Well, if it's three o'clock in the morning, dark
18 outside, and someone is close enough that you can see them
19 run alongside the car shooting, where are the bullet
20 holes? Not only that, you heard from Investigator Adams.
21 He searched a good bit of that area. He even went back
22 the next day and searched that area. Didn't find any more
23 casings, just the three up where Mario was shot, all the
24 same stamp on the bottom of them. All within a few feet
25 of each other. Is it reasonable?

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 There is also the fact that several of the
2 witnesses, in fact almost all of the witnesses said there
3 were no shots fired after he got, took off in the car So
4 if his statement he made right after this happened before
5 he knew about all of this and before he knew there were
6 pictures of the car, is it consistent? Does he have a
7 reason to tell you something different?

8 Latasha Brown Now there is something different
9 about Latasha. She told you she knows of Tanika and
10 Tamika, but they're not really close friends So what's
11 different about her? Maybe she's not going to be back in
12 that environment that much, running into the same people
13 as Tamika and Tanika might be running into on a regular
14 basis

15 What did she say happened? Well, she's the one
16 that said Joshua pinned his ex-girlfriend up against the
17 wall inside the club. She said that Jonathan and Mario
18 were trying to get them broke up They did get them broke
19 up. She said that Mario went to walk away after the
20 confrontation outside. And that she heard the Defendant
21 in this case, the man sitting right over there, say, you
22 aren't going to leave from here tonight, speaking to
23 Mario

24 Does that show intent? Does that show malice?
25 Does that show malice aforethought that he intended what

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 happened right before it happened? That would be part of
2 your decision.

3 Latasha saw him pull a gun from his waistband and
4 shoot in the air before they locked up Saw them wrapped
5 up in the bear hug. Consistent? Saw that man pull a gun
6 again and shoot Mario in the stomach and Mario fell

7 What about Sherry Cade? She's a friend of
8 Latasha. Again, not in the same circle, same social
9 circle as the other witnesses in this case She heard
10 Joshua Forrest say, M F., I'm going to kill you tonight.
11 Then she saw him reach and pull out a gun. She saw them
12 locked in a bear hug. She said she heard two shots and
13 saw Mario fall to the ground, letting go of Joshua And
14 she hadn't changed her story since she first gave it.

15 What did Joshua tell Chuck Cain? We've been
16 through some of it He and Tamika argued That's pretty
17 clear. That's been established He said he tried to get
18 into the Lincoln but he couldn't get in I guess he was
19 trying to get away.

20 Well, that's a big old car And if you think
21 something bad is going to happen, is it reasonable that
22 you couldn't get in it? Or is that a statement made to
23 diminish your guilt, to cover up what was really going
24 on? What's reasonable?

25 What else did he say? He said they were in a

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 bear hug and he was only was able to get loose as Mario
2 was falling after the shots and he tore his shirt. So the
3 timing of that hole comes right out of his mouth. The
4 shots that dropped Mario happened while they were in a
5 bear hug

6 When he is confronted with that, by Investigator
7 Cain, what did he tell Investigator Cain? He said, why
8 don't you have a hole in you. God's will. A magic
9 bullet, turning bullet. Is that reasonable?

10 He then told Investigator Cain that he was taken
11 by his cousin to the Waffle House. Again that was before
12 James Forrest said where he really went. He was giving
13 this statement before he had a chance to see all of this
14 other stuff.

15 Is that consistent and if it's not, why would it
16 not be consistent? Now, he wants to say he turned himself
17 in 12 hours later. If you're involved in something and
18 someone got shot and you didn't do it but you might know
19 something about it, do you wait 12 hours? Do you run at
20 all? Or do you stay and try to get things straightened
21 out? That's up for you to decide.

22 Ladies and gentlemen, I know there are
23 inconsistencies. I know there are things that people
24 remembered different. And there's a lot of testimony
25 you're going to have to weigh out and you're going to have

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 to do like they used to do with wheat, kind of roll it in
2 your hands and blow the chaff out and see what's left.

3 See what kernels of truth are left after you do that

4 But I think if you examine the witnesses, not
5 only what they said, why they might have said it, why
6 things might have changed, and you blow all of that chaff
7 out of that wheat, I think when you look back you will see
8 that what happened that night with the stupid argument
9 between people who used to love each other and they went
10 outside and for whatever reason her friends were sticking
11 up for her and there was a struggle and there was an
12 argument and there was a drink thrown, all of that stuff

13 But you don't take a gun to a fist fight You
14 get out of the situation You leave You go away If
15 you're trying to get away, you don't turn around and come
16 back You get away. You don't get a gun. You don't tell
17 somebody they're not leaving here tonight. You get away.
18 Who brought the gun to the fist fight? Who didn't walk
19 away?

20 Now, there's been no evidence and there's been no
21 testimony of any self-defense in this case It's
22 reasonable that some people might have been scared, some
23 people might have been upset, some people might have been
24 trying to avoid getting into a conflict, but as I said
25 this is a place of rules

1 And the Judge is going to tell you what law to
2 apply to this case. And I don't believe he's going to
3 tell you anything about this is all right because someone
4 thought they were going to get punched in the nose or a
5 busted lip, or this is excused because there were two
6 against one

7 That is not the law in this case The law in
8 this case is did Joshua Forrest with malice, ill will, a
9 heart bent on mischief, is what the law says, shoot Mario
10 Reddish and did he die as a result of that shooting.

11 I believe that once you examine the evidence,
12 talk about it amongst yourselves, that you'll come up with
13 the right decision in this case, and it has to be a
14 unanimous decision. Everyone has to agree on the final
15 decision. Look at the evidence, talk about what the
16 witnesses said. If you don't remember it, there are ways
17 to play it back if that's necessary

18 But this is Mr Forrest's day in court. And
19 we're also here with the Reddish family and they're having
20 this case disposed of in court, too. As I said before,
21 they're not going to be able to walk away and forget about
22 this and go about their Christmas.

23 So I ask you to take this seriously because it
24 did take the life of a citizen of Aiken County And it is
25 a very serious matter to the victim's family. Very

1 serious matter to the people of Aiken County and the State
2 of South Carolina.

3 Thank you for your time.

4 THE COURT: Madam Forelady, ladies and gentlemen,
5 my charge is a little bit long in these type of cases so
6 let's take a quick stretch-your-leg break and we'll come
7 back and I'll give you the charge Don't start to discuss
8 the case.

9 (Jury exits courtroom at 10:17 a.m).

10 THE COURT: Mr Gibbons, does the State have any
11 particular charges they desire?

12 MR GIBBONS: Your Honor, I think the State would
13 request the obvious charges but we would ask for a
14 voluntary intoxication charge due to the fact that he told
15 the officer that he was drinking that night I don't want
16 the jury to think that that's an excuse.

17 THE COURT: Voluntary intoxication charge

18 MR. GIBBONS Yes, sir

19 THE COURT: I think I got that one Anything
20 else?

21 MR. GIBBONS No, sir.

22 THE COURT: If you've got one right there with
23 you, hand it up to me.

24 Ms. Stoney, any particular charges you desire?

25 MS. STONEY: Your Honor, I had pulled a set of

1 ten charges. I don't do a lot of South Carolina criminal
2 charges

3 THE COURT: Ma'am?

4 MS STONEY: I don't do a lot of South Carolina
5 criminal cases. You may have every single one of these in
6 your normal charges and if that's so, that's perfectly
7 fine with me.

8 MR GIBBONS: Your Honor, I have looked at,
9 looked them over. There is only one that I had an issue
10 with. That was number nine.

11 THE COURT: Hold on. Let me go through them.

12 (Pause.)

13 THE COURT: Ms Stoney has handed up presumption
14 of innocence. That's a standard charge. Reasonable
15 doubt. Standard charge is not necessarily what she's got
16 here, but it's the one the courts approve in South
17 Carolina. She wants a mere presence charge

18 MR GIBBONS: Yes, sir.

19 THE COURT: I think that's appropriate. I didn't
20 have it but I'll charge that. Indictment not evidence,
21 failure to testify. Those are all of my general charges.
22 Murder is my general charge. She wants an intent charge
23 and a direct and circumstantial evidence charge.
24 Credibility of witnesses. All of those are my regular
25 charges. I'm not sure about circumstantial evidence. Is

1 that applicable in this case?

2 MR GIBBONS Your Honor, I think number eight
3 covers it as the law is right now I think number nine is
4 what you use when you're relying entirely on
5 circumstantial evidence

6 THE COURT I'm going to give ours, that our
7 Supreme Court agrees upon.

8 MS STONEY Thank you, Your Honor. Judge --

9 THE COURT Now, if she's asking for mere
10 presence and intent, nobody has asked for a lesser-
11 included offense of voluntary manslaughter Is that
12 correct, on behalf of the State?

13 MR GIBBONS No, sir

14 THE COURT: Ma'am?

15 MS. STONEY: No, sir.

16 THE COURT As soon as my lawyer is ready we will
17 charge

18 MR. GIBBONS: I didn't have an intoxication one
19 up here Do you want me to go get one?

20 THE COURT: I've got it.

21 (Pause.)

22 THE COURT: Anything from the State before we
23 bring the jury in?

24 MR GIBBONS: No, sir, Your Honor. Nothing from
25 the State.

JUDGE'S CHARGE TO THE JURY

1 THE COURT: Anything from the Defendant?

2 MS STONEY: No, Your Honor

3 THE COURT: Close the doors You may bring them

4 in

5 (Jury enters courtroom at 10:27 a.m)

6 JUDGE'S CHARGE TO THE JURY

7 THE COURT Madam Forelady, ladies and gentlemen,
8 when I charge you the law, basically what I'm doing is
9 just instructing you and telling you what the law is.

10 The way I will do it is in all cases that I try
11 all over the State, whether it be here, in Columbia or
12 Spartanburg or where I'm assigned to hold court, the first
13 part of the charge will be general law concerning all
14 criminal cases. I'll do that and then I'll go
15 specifically to the indictments in this case What I'll
16 tell you to start off with is sort of general law as it
17 applies to all criminal cases and then I'll go from that
18 to the specific charges in this case.

19 In this case, as we've stated before, the
20 Defendant is charged with two indictments. One for
21 murder, the other is for possession of a firearm or knife
22 during the commission of or attempt to commit a violent
23 crime I remind you, once again, the fact that the
24 Defendant was arrested, charged, and indicted in the case
25 is not evidence in the case and cannot be considered by

JUDGE'S CHARGE TO THE JURY

1 you as evidence of any guilt in the case, nor does it
2 create any presumption or inference of guilt.

3 The indictment is simply the formal written
4 instrument which contains the charges. It's the way the
5 case is brought into this court. So the fact that he was
6 indicted, don't even consider that. That's not evidence.
7 That's no inference of anything That's just the charges
8 by which he was brought into the case.

9 As I said in this case there are two indictments,
10 one for murder and one for possession of a firearm during
11 the commission of a violent crime Each indictment
12 charges a separate and distinct offense. You must decide
13 each indictment separately on the evidence and the law to
14 any other indictment

15 Now, in this case, the Defendant has pled not
16 guilty to both indictments A plea of not guilty puts the
17 burden on the State of South Carolina to prove the
18 Defendant guilty beyond a reasonable doubt.

19 A person charged with committing a criminal
20 offense in our State is never, ever required to prove
21 himself innocent I charge and instruct you that it is an
22 important rule of constitutional law as well as common law
23 that a criminal -- that a Defendant in a criminal trial,
24 no matter what the seriousness of the charge may be, will
25 always be presumed to be innocent of the crimes for which

JUDGE'S CHARGE TO THE JURY

1 the indictments were issued unless guilt has been proven
2 by evidence satisfying you of that guilt beyond a
3 reasonable doubt

4 The presumption of innocence does not end when
5 you begin your deliberations, but it stays with the
6 Defendant throughout the trial until you reach a verdict
7 of guilt based on evidence satisfying you of that guilt
8 beyond a reasonable doubt.

9 The presumption of innocence is not a mere legal
10 theory. It is not just a legal phrase. It is a
11 substantial constitutional right to which every defendant
12 is entitled to unless you, the jury, are satisfied from
13 the evidence of the Defendant's guilt beyond a reasonable
14 doubt

15 What is a reasonable doubt? The law in our state
16 defines a reasonable doubt as the kind of doubt that would
17 cause a reasonable person to hesitate to act. It is very
18 simple. A reasonable doubt is the kind of doubt that
19 would cause a reasonable person to hesitate to act

20 As I told you at the beginning of the trial, you
21 and I have certain duties to perform. Are you the judges
22 of the facts. And I'm the judge of the law. You are to
23 consider only the testimony which has been presented from
24 this witness stand, any of the exhibits which have been
25 made a part of the record.

JUDGE'S CHARGE TO THE JURY

1 I also have the duty of charging you the law
2 applicable to the case. As the presiding judge, I am the
3 sole judge of the law of the case and it is your duty as
4 jurors to accept the law as I now state it to you

5 As I said earlier, if you have some preconceived
6 idea about what the law is or what it should be and it
7 does not agree with what I tell you, under your oath
8 you've sworn that you would set aside those preconceived
9 ideas and accept the law as I give it to you now.

10 The same law that makes me the judge of the law
11 makes you the judge of the facts. The jury becomes the
12 sole and exclusive judge of the facts in the case. As the
13 trial judge, I cannot intimate, state, comment on or make
14 any statement to you about the facts in the case.

15 Since you are the sole judges of the facts in the
16 case you're not to infer from anything I said during the
17 progress of this trial, the ruling upon admissibility of
18 evidence or otherwise or anything that I've said during
19 the course of the trial that I have any opinion about the
20 facts in the case. So if I smiled or frowned or yawned or
21 whatever, I can't have an opinion about the facts so
22 please don't take anything that I've said or done during
23 the trial to indicate that I have an opinion about the
24 facts. I do not. The law does not allow me. It is your
25 duty to determine the effect, the value, the weight, and

JUDGE'S CHARGE TO THE JURY

1 truth of the evidence presented during the trial

2 Now, there are two types of evidence which are
3 generally produced or presented during the trial. One is
4 what we call direct evidence and one is circumstantial
5 evidence. Direct evidence is pretty simple. It's the
6 testimony of a person who claims to have actual knowledge
7 of a fact such as an eyewitness. It is evidence which
8 immediately establishes the main fact to be proved. In
9 other words, I saw it. That's direct evidence. If you go
10 outside and you see it raining, and you testify it was
11 raining, that's direct evidence.

12 The other type of evidence is what we call
13 circumstantial evidence. That is a proof of a chain of
14 facts and circumstances indicating the existence of a
15 fact. It is evidence which immediately establishes
16 collateral facts from which the main fact may be
17 inferred.

18 The law makes absolutely no distinction between
19 the weight or value to be given to either direct or
20 circumstantial evidence, nor is a greater degree of
21 certainty required of circumstantial evidence than that of
22 direct evidence.

23 You should weigh all of the evidence in the
24 case. After weighing all of the evidence, if you are not
25 convinced of the guilt of the Defendant beyond a

JUDGE'S CHARGE TO THE JURY

1 reasonable doubt then you must find the Defendant not
2 guilty

3 So direct evidence is you see the rain, you come
4 in and you testify about the rain. Circumstantial
5 evidence is, as you came in this morning it was cloudy and
6 overcast and you go out for lunch and there are mud
7 puddles everywhere and you testify that there are mud
8 puddles there, then that's circumstantial evidence that it
9 must have rained during the time that you came in and
10 left It's a very simple example but that's basically
11 what it is

12 I guess your biggest job, any juror's biggest job
13 in any case in deciding what the true facts are in the
14 case is determining what we call the credibility of
15 witnesses who have testified in the case. Credibility
16 simply means believability

17 It becomes your duty as jurors to analyze and to
18 evaluate the evidence and determine which evidence
19 convinces you of its truth You determine what the truth
20 is In determining the truth or believability or
21 credibility of witnesses who have testified in a case, you
22 may believe one witness over several witnesses, or several
23 witnesses over one witness.

24 You may believe a part of the testimony of a
25 witness and reject the remaining part of the testimony of

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1 that same witness You may believe the testimony of a
2 witness in its entirety or you may reject it You may
3 consider whether any witness has exhibited to you any
4 interest, bias, prejudice, or other motive in a case You
5 may also consider the appearance and the manner of a
6 witness while on the witness stand.

7 As the trial progressed, I think we had a couple
8 of people who I qualified as expert witnesses And I told
9 you at that time, normally the rules of evidence do not
10 permit a witness to testify to opinions or conclusions.
11 An exception to the rule exists for witnesses we call
12 expert witnesses A witness who by way of education and
13 experience has become an expert in some area that is
14 relevant and material to the trial, he may render an
15 opinion and give reasons for that opinion.

16 Now, you should consider any expert opinion
17 received in evidence and like any other evidence, give it
18 the weight you think it deserves. If you decide that the
19 opinion of an expert is not based on sufficient education
20 and experience, or if you conclude that the reasons given
21 in support of that opinion are not sound, or that the
22 opinion is outweighed by other evidence, you may disregard
23 the opinion entirely

24 An expert witness's testimony is to be given no
25 greater weight than that of any other witness simply

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1 because the witness is an expert. Further, you're not
2 required to accept an expert's opinion even though it's
3 not contradicted.

4 The general rule or the rule of law on the
5 failure of the Defendant to testify is as follows. I
6 instruct and charge you and emphasize that the fact that
7 the Defendant did not testify is not a factor, is not a
8 factor to be considered by you in any way whatsoever in
9 your deliberation and in your consideration on the
10 question of guilt or innocence of the Defendant. It must
11 not be considered by you in any manner whatsoever.

12 A Defendant has the constitutional right to
13 remain silent and the assertion of this constitutional
14 right must not be considered by you in your
15 deliberations. I repeat. You are not to draw any
16 conclusion whatsoever from the fact that the Defendant in
17 this case did not testify. The fact that he did not
18 testify should not even be discussed in the jury room.

19 Madam Forelady, if that is discussed you're to
20 remind the jurors that it is against the rules and stop it
21 immediately.

22 The burden of proof, as I have stated to you, is
23 on the State. That burden is to prove the Defendant
24 beyond a reasonable doubt -- prove him guilty beyond a
25 reasonable doubt. The Defendant is not required to prove

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1 his innocence That burden remains on the State to prove
2 guilt beyond a reasonable doubt.

3 In this case a statement alleged to have been
4 made by the Defendant has been admitted into evidence.
5 While I have determined that the statement is admissible,
6 I instruct you that you may -- you make the ultimate
7 decision of whether or not the Defendant made the
8 statement.

9 If the Defendant did make the statement, then you
10 must determine whether the statement was made by the
11 Defendant voluntarily of his own free will. This means
12 that the statement was not caused by pressure, force,
13 fear, threats, coercion or intimidation or by hope or a
14 promise of leniency or a reward of any kind.

15 In determining whether the statement was
16 voluntary you should consider both the characteristics of
17 the Defendant and the details of the questioning. Some of
18 the factors you must consider are the age of the
19 Defendant, the Defendant's education or lack thereof, the
20 Defendant's mental ability or capacity, the Defendant's IQ
21 or intelligence, the Defendant's background and
22 environment, the place and length of detention, the nature
23 of the questioning, and the advice or lack thereof to the
24 Defendant of his constitutional rights including but not
25 limited to the right to remain silent, that any statement

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1 could be used against him in a court of law, the right to
2 have a lawyer present, that if he could not afford a
3 lawyer, a lawyer would be appointed to represent him
4 without any cost and that he could stop making a statement
5 at any time

6 You must carefully consider all of the
7 surrounding circumstances before you give any weight to an
8 alleged statement The State has the burden of proof --
9 or burden of proving beyond a reasonable doubt that the
10 alleged statement was voluntary If you determine it was,
11 you may give the statement any further consideration that
12 you deem proper

13 You must determine what weight, if any, should be
14 given to the alleged statement. If you determine the
15 alleged statement was not the free and voluntary statement
16 of the Defendant, you should not consider the statement at
17 all

18 Another general rule of law is dealing with
19 intent. In order to establish criminal liability,
20 criminal intent is required. For example, the mental
21 state required to be proven by the State for a particular
22 crime might be purpose, intent, knowledge, recklessness or
23 criminal negligence. Criminal intent must be proven by
24 the State beyond a reasonable doubt.

25 Criminal intent is always a matter that must be

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1 determined by the jury from the circumstances surrounding
2 the situation. There is no way to prove intent to a
3 mathematical certainty. There is no way medical science
4 can dissect a person's brain and determine what the person
5 had in mind. So the law says that criminal intent may be
6 inferred from the circumstances shown to have existed.
7 This is how you make a determination of whether or not the
8 element requiring intent was present. It is not necessary
9 to establish intent by direct and positive evidence but
10 intent may be established by inference in the same way as
11 any other fact, by taking into consideration the acts of
12 the parties and all of the facts and circumstances of the
13 case.

14 Criminal intent is a mental state, a conscious
15 wrong doing. It is up to you to determine what the
16 Defendant intended to do, based on the circumstances shown
17 to have existed. Criminal intent can arise from action or
18 failure to act. It may arise from negligence,
19 recklessness or an indifference to duty or to consequences
20 that is considered by the law to be the equivalent of
21 criminal intent.

22 I further charge you that mere presence at the
23 scene is not sufficient to prove someone guilty of a
24 crime. A Defendant's presence where a crime is being
25 committed or mere association with a person who commits a

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1 crime does not make a defendant an accomplice or an aider
2 and abettor for the person committing the crime.

3 The burden is on the State of South Carolina to
4 prove every element of the crime charged beyond a
5 reasonable doubt. If you find after reviewing all of the
6 evidence that the State has proven that the Defendant was
7 only present at the scene of the crime and that they have
8 not proved beyond a reasonable doubt any other
9 participation in the crime, then you must find the
10 Defendant not guilty. The law is that proof of being at
11 the scene of the crime is not sufficient to find someone
12 guilty.

13 In this case you heard one witness testify who
14 had a past criminal record. I instruct and charge you
15 that a person who is a witness who has a past criminal
16 record is competent to testify during a trial. A past
17 record does not affect the ability of that witness to
18 testify. The past record may only be considered by you,
19 if at all, in determining the witness's believability or
20 credibility. You are the sole judges of the facts and the
21 believability of any and all of the witnesses is your sole
22 responsibility.

23 Now, that's pretty much the general law that
24 deals with this case. General principles of law. Let's
25 now turn to the two indictments. I will talk about the

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1 murder indictment first.

2 In this case, the Defendant is charged with
3 murder. The State must prove beyond a reasonable doubt
4 that the Defendant killed another person with malice
5 aforethought. Let's talk about what malice aforethought
6 means. First of all, malice as defined in our law as
7 hatred, ill will or hostility towards another person. It
8 is the intentional doing of a wrongful act without just
9 cause or excuse and with an intent to inflict an injury or
10 under circumstances that the law will infer as evil
11 intent.

12 That's malice. Malice aforethought does not
13 require that malice exist for any particular time before
14 the act is committed, but malice must exist in the mind of
15 the Defendant just before and at the time the act is
16 committed. Therefore, there must be a combination of the
17 previous evil intent and the act

18 Malice aforethought may be expressed or
19 inferred. The terms express and inferred do not mean
20 different kinds of malice but merely the manner in which
21 malice may be shown to exist. And this is either by
22 direct evidence or by inference from the facts and
23 circumstances which are proved.

24 Express malice is shown when a person speaks
25 words which express hatred or ill will for another, or

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1 when a person prepared beforehand to do the act which was
2 later accomplished For example, lying in wait for a
3 person or any other act of preparation going to show that
4 the deed was within the Defendant's mind would be express
5 malice.

6 The other type of malice or the other way to
7 prove malice -- not the other type, but the other way it's
8 proved is called inferred malice Malice may be inferred
9 from conduct showing a total disregard for human life.
10 Inferred malice may also arise when a deed is done with a
11 deadly weapon. A deadly weapon is any instrument likely
12 to cause death or great bodily harm. Whether an
13 instrument has been used as a deadly weapon depends on the
14 facts and circumstances of each case An example of a
15 deadly weapon includes the use of a pistol.

16 The other indictment charges the Defendant with
17 possession of a weapon during the commission or attempt to
18 commit a violent crime. In order to meet the burden, the
19 State must prove beyond a reasonable doubt that the
20 Defendant was in possession of a firearm during the
21 commission of a violent crime A firearm means any type
22 of gun, pistol, revolver or any other weapon which will
23 and is designed to or may be readily converted to expel a
24 projectile.

25 In order to find the Defendant guilty of

JUDGE'S CHARGE TO THE JURY

1 possession of a weapon during the commission of a violent
2 crime, you must first find the Defendant guilty of either
3 committing a violent crime or attempting to commit a
4 violent crime. And murder is a violent crime. I will
5 explain that a little bit to you in a second when I give
6 you the verdict forms.

7 Now, there are two verdict forms in this case
8 And what you do, Madam Forelady, first of all when you
9 start your deliberation and you reach a decision, your
10 verdict must be unanimous. All 12 of you must agree
11 unanimously as to your verdict. There are two verdict
12 forms. One is for a murder charge and one for the
13 possession of a firearm during the commission of a violent
14 crime

15 The verdict form is two choices; not guilty or
16 guilty The verdict must be unanimous. Please do not put
17 any emphasis on the order in which I've put them on
18 there. One has got to go before the other one That
19 doesn't mean anything Whichever one y'all decide is the
20 correct verdict, you mark it.

21 You would consider the murder indictment first
22 because obviously if you find him not guilty of murder
23 then he would not have been committing a violent crime.
24 If you find him guilty of murder, then you would consider
25 possession of a weapon during the commission of a violent

JUDGE'S CHARGE TO THE JURY

1 crime. There are two verdict forms

2 Once you have reached the verdict you will knock
3 on the door and tell the bailiff, we have a verdict And
4 we'll come back and get you It's 11 o'clock I'm going
5 to let you go back to the jury room now I'm going to ask
6 you still not to start deliberations I've got to ask the
7 lawyers if I have left anything out. That won't take us
8 but a second Then I have to gather up all of the
9 evidence.

10 I don't know if y'all are going to deliberate a
11 half an hour or ten hours. We had a jury last week that
12 went to 1:30 in the morning. That's up to y'all.

13 I want you to give it thorough thought and
14 thorough deliberation. The reason I'm saying that is, do
15 you want me to order you some lunch? I just don't know.
16 I mean, it's eleven 11 30. I'll be glad to We've
17 got -- we can order sandwiches up there from the Bowery.
18 And even if you get a verdict and the lunch hasn't gotten
19 here, you can wait and eat on it to get back.

20 Does that suit y'all?

21 FOREPERSON OF THE JURY. Thank you

22 THE COURT Let's do this. While I'm asking them
23 if they have any questions about my charge and I go over
24 and make sure that we got all of the evidence, y'all go
25 ahead and place your order. That way we can send it over

JUDGE'S CHARGE TO THE JURY

1 there and they can be working on it and get it back to
2 us. Does the Bowery suit y'all? That's the little place
3 right up here. They got good sandwiches and salads.

4 All right. All 14 of you go back there now and
5 place your order and when we get ready we'll get the two
6 alternates out.

7 (Jury exits courtroom at 10 54 a.m.)

8 THE COURT On behalf of the State, are there any
9 additional requests or objections or any comment on my
10 charge?

11 MR. GIBBONS: There was just the one that we
12 submitted, the intoxication case Other than that --

13 THE COURT I flat forget it. Ma'am?

14 MS STONEY: No, Your Honor.

15 THE COURT None, all right Still want it?

16 MR GIBBONS: Yeah.

17 THE COURT I'll do that

18 MR GIBBONS Thank you, Judge. Other than that,
19 no

20 THE COURT Tell them to step back out here right
21 before they start to order. The verdict formats, y'all
22 want to look at them real quick?

23 (Pause.)

24 (Jury enters courtroom)

25 THE COURT. This notebook contains about half of

1 our jury charges. I forgot one.

2 It is a general rule of law, ladies and
3 gentlemen, that the -- have you got one? It's a general
4 rule of law that the use of alcohol or drugs --

5 MR GIBBONS: I don't have it up here I don't
6 have a problem with you summarizing it, Your Honor,

7 THE COURT: It is a general rule of law that the
8 use of alcohol or drugs when it's a voluntary intoxication
9 case that has not produced permanent insanity is not a
10 defense to a crime A person who voluntary becomes --
11 y'all bare with me.

12 Voluntarily becomes intoxicated is just as
13 responsible for the acts committed while intoxicated as
14 when a person is not intoxicated All right. Is that
15 fine?

16 MR GIBBONS: Thank you, Your Honor

17 MS STONEY Yes

18 THE COURT All right. Let's do this now because
19 I'm getting ready to let you start deliberating. Put my
20 two alternates in a different room Y'all go ahead and
21 place your order, all of you, while we're gathering up the
22 evidence. As soon as I send the evidence back in you
23 start your deliberations I suggest you do your orders
24 first That way you can get that going Thank you.

25 (Jury exits courtroom at 10:57.)

1 THE COURT All right. You two come up, make
2 sure we got all of the exhibits

3 (Attorneys comply)

4 THE COURT Eight is not in Both parties agree
5 that Number Eight is not in, the detective could not
6 identify that Put it on the record. Does the State
7 agree that all the exhibits are present?

8 MR. GIBBONS That's correct

9 THE COURT: Ready to go to the jury?

10 MR GIBBONS: State is ready.

11 THE COURT: Likewise on behalf of the Defendant?

12 MS. STONEY: Yes, Your Honor

13 THE COURT Thank you.

14 (Thereupon the jury begins deliberations at 11
15 o'clock a.m. Thereafter, other matters were heard by the
16 Court.)

17 THE COURT: Ms. Stoney.

18 MS STONEY: Yes, sir

19 THE COURT: Mr Gibbons.

20 MR GIBBONS: Yes.

21 THE COURT: My response to Court's Exhibit Two
22 would be, these are questions the Court cannot answer.
23 You have all the evidence before you.

24 Any objection on behalf of the State?

25 MR. GIBBONS No, sir

1 THE COURT. Any objection on behalf of the
2 Defendant?

3 MS. STONEY No, Your Honor.

4 THE COURT Tell them that I responded on the
5 back, and I need them to keep that. Next plea

6 (Court Exhibit number Two, note from jury, marked
7 and received.)

8 (Thereupon, other matters were heard by the
9 Court)

10 THE COURT. Here we go again.

11 (Off-the-record discussion. Sidebar)

12 (Court's Exhibit No 3, note from jury, was
13 marked and received.)

14 THE COURT: I intend to send, I can play Officer
15 Cain's testimony if you like If so, advise what
16 portion Any objection?

17 MR GIBBONS. No objection

18 MS. STONEY: No objection

19 (Whereupon a break was taken.)

20 (Court's Exhibit No. 4, note from jury, was
21 marked and received.)

22 THE COURT. All right In the murder case,
23 question, my answer is. You may listen. We will bring
24 you back into the courtroom and replay the testimony.
25 Please advise what witnesses you wish to hear so we can

1 locate the testimony on the tapes.

2 Any objection on behalf of the State?

3 MR. GIBBONS: None.

4 THE COURT: Defendant?

5 MS. STONEY. No, Your Honor

6 (Court Exhibit No. 5 and Court Exhibit No. 6 was
7 was marked and received.)

8 (Thereupon other matters were heard by the
9 Court.)

10 (Court's Exhibit No. 7 was marked and received.)

11 THE COURT. In response to question number seven
12 from the jury or note number seven, I can do it a couple
13 of ways. I can do an in camera by myself. I can bring
14 her out here, read the note to her and tell her that she
15 is sworn to -- when she took the oath of a juror to try
16 this case based on the evidence that was presented in the
17 courtroom, to find the true facts from that evidence,
18 apply the law as I give it to her and not be influenced by
19 any outside situations including personal experience. I
20 can do that

21 MR GIBBONS Judge, I would prefer in camera.

22 MS STONEY: And I vote the other way.

23 THE COURT. All right. I'm going to do it out
24 here in the courtroom Any objection to the substance of
25 what I want to tell her?

1 MR. GIBBONS: Are you going to question them?

2 THE COURT I'm not going to question them.

3 There is no telling what she might say

4 MR. GIBBONS I would be just be worried if she
5 has some outside information to taint the jury with It
6 sound like that might have already happened. I don't
7 know

8 THE COURT Any other suggestion?

9 MS. STONEY: No, sir.

10 THE COURT: All right Ask the Forelady to
11 please send that juror out.

12 (Pause)

13 (Juror enters courtroom at 2.09 p.m)

14 THE COURT Ma'am, I got a question that says
15 that we have a juror that was in a bear hug situation and
16 accused and she would like to talk with you Let me just
17 tell you this: When you took your oath to serve as a
18 juror in this case, what we ask all of our jurors to do is
19 to decide this case based upon what evidence is presented
20 to them during the trial of the case.

21 That is, the testimony that's allowed into
22 evidence, and then y'all decide when that testimony --
23 what you deem to be the truth. You take those true facts
24 that you find them to be and you apply it to the law as I
25 give it to you That's the oath that you took

1 We all as humans have experienced things in life
2 as we come and go . You can't leave your common sense
3 outside of the courtroom but by like token, we ask that
4 you set aside any preconceived ideas or anything of that
5 nature and decide the case solely based on the facts that
6 you hear and not be influenced by anything else. That's
7 why I tell you not to read the newspaper and not to
8 discuss the case. And I hope that you can do that.

9 THE JUROR. I can do that. I just did not know
10 if that was fair to the rest of the people in the room.

11 THE COURT: Well, we all have experiences. We
12 all have different experiences. That's what makes the
13 jury system so great because you take 12 citizens who all
14 have wide backgrounds, different backgrounds and that's
15 what makes it so good.

16 It is fair as long as you don't use -- as long as
17 you decide the case based solely on what was tried in the
18 courtroom and nothing else, on the evidence that you find,
19 whatever you find to be true from what I have admitted
20 into evidence and from what the witnesses have testified,
21 you determine what you believe to be truth.

22 And if you can do that and not be influenced by
23 past personal experiences or personal events then are you
24 a great juror. That's all I need. Thank you. Stand
25 there one second.

1 Any objection by the State to my remarks?

2 MR. GIBBONS: No, sir

3 THE COURT: No By the defense?

4 MS. STONEY: No, Your Honor

5 (Juror exits courtroom at 2:12 p m.)

6 THE BAILIFF A juror needs to go to his and get
7 some medicine

8 THE COURT: All right Tell the juror he may go
9 get -- had a kind of medicine?

10 (Pause)

11 THE COURT Any objection to that by either
12 side?

13 MR GIBBONS. No, Your Honor.

14 MS STONEY No

15 THE COURT Anything else from the solicitor's
16 office?

17 (Thereupon, other matters were heard by the
18 Court)

19 THE COURT: Let the record reflect that the
20 Defendant is in the courtroom. Ms Stoney, I would ask
21 that you take a brief moment and explain to the Defendant
22 the various notes that we've got and our responses to
23 people, and any comments he would like to make.

24 MS. STONEY: Yes, sir, Your Honor,

25 (Pause Off-the-record discussion.)

1 MS. STONEY. Your Honor

2 THE COURT: Have you had an opportunity to
3 explain all the notes? Any questions, sir?

4 THE DEFENDANT: No, sir

5 THE COURT: All right What we're going to do
6 now, the jury has requested they want to hear some
7 testimony replayed That's a very common request from
8 jurors We'll bring the jury back in now and play it.
9 There won't be any additional testimony We'll replay
10 what they request Do you understand that?

11 THE DEFENDANT Yes, sir.

12 (Jury enters courtroom at 2:25 p.m)

13 THE COURT: What we'll do is the court reporter
14 has the testimony earmarked. She'll start playing it
15 When we get to the point where you think you've heard
16 enough by that witness, raise your hand and we'll go to
17 the next one If not, we'll have the play it all the way
18 through

19 After you've heard what you would like to hear
20 raise your hand Do you have some pads, note pads? How
21 about giving me 12 note pads. I'll allow you to take
22 notes And give them some pencils.

23 Y'all comfortable? If anybody isn't, let me
24 know.

25 (Pause.)

1 THE COURT: What I'll do is let her start on
2 Tanika, and then you asked for Latasha and Sherry and
3 James and then Mr Cain's interview with Joshua as to
4 where Joshua and Mario were standing.

5 So when you think you've heard enough, raise your
6 hand Make sure that everybody is in agreement and we'll
7 go to the next one If not, we got to play everything.
8 If you need it played, we'll be glad to do that.

9 (Thereupon the testimony as requested, Tanika
10 Roberson, Latasha Brown, Sherry Cade and James Forrest,
11 Charles Cain was replayed for the jury)

12 THE COURT: Anything else? All right. Thank
13 you

14 (Thereupon the jury exits the courtroom at
15 3:43 p m.)

16 THE COURT. Is there any objections or criticisms
17 or any comments on behalf of the State on the way we
18 replayed the testimony?

19 MR GIBBONS: None.

20 THE COURT On behalf of Defendant?

21 MS STONEY. No, Your Honor

22 THE COURT All right. We'll stand at ease
23 again

24 (Thereupon other matters were heard by the
25 Court.)

ALLEN CHARGE

1 THE COURT: All right For the record, I have
2 been informed by the Foreperson that they are unable to
3 reach a unanimous decision I shared that with the
4 lawyers in chambers I shared with the lawyers that we
5 had a number of options.

6 One would be to give an Allen charge. One is
7 just to let them keep on going Another one would be to
8 send them home and let them come back tomorrow

9 After thinking about it, I think that the best
10 thing to do is let's do an Allen charge and let them
11 deliberate another couple of hours and see where we go.
12 Any objection by the State?

13 MR. GIBBONS No, Your Honor

14 THE COURT By the Defendant?

15 MS. STONEY No, Your Honor.

16 (Jury enters courtroom at 5:01 p m.)

17 THE COURT: Guess what? You are not the first
18 jury that I've ever had that can't come to a unanimous
19 decision That doesn't surprise you, does it? It happens
20 quite often so don't get discouraged

21 We can do a couple of things. I can talk to you
22 a little bit about when juries are unable to reach a
23 unanimous verdict and send you back and let you try to
24 talk about it a little while longer, or I can let you go
25 home and come back tomorrow when you're fresh But what

ALLEN CHARGE

1 I'd really like to do, if it suits y'all, is let me talk
2 to you about being unable to reach a verdict. And let's
3 try it a little bit longer and see how it goes Is that
4 fair?

5 As I said, it's not unusual and it happens from
6 time to time all over the state where I go that perhaps
7 sometimes jurors are unable to reach a unanimous verdict
8 I'll tell you that when a matter is in dispute it isn't
9 always easy for even two people to agree. So when 12
10 people must agree, it becomes even more difficult.

11 In most cases absolute certainty cannot be
12 reached or expected However, you have a duty to make
13 every reasonable effort to reach a unanimous verdict In
14 doing this, you should consult with one another, express
15 your own views and listen to the opinions of your fellow
16 jurors Tell each other how you feel and why you feel
17 that way. Discuss your differences with open minds
18 Although the verdict of the jury must be unanimous, every
19 one of you has a right to your own opinion.

20 The verdict you agree to must be your own
21 verdict, the result of your own convictions and you should
22 not give up your firmly-held beliefs merely to be in
23 agreement with your fellow jurors The majority should
24 consider the minority's position and the minority should
25 consider the majority's position.

ALLEN CHARGE

1 You should carefully consider and respect the
2 opinions of each other and reevaluate your positions for
3 reasonableness, correctness and impartiality You must
4 lay aside all outside matters and reexamine the questions
5 before you based on the law and the evidence in this case.

6 If you do not agree on a verdict in this case,
7 then I must declare a mistrial In that case it does not
8 mean anybody wins, it just means that at some future time
9 I will try this case again with some other jury sitting
10 where you sit now, the same participants will come forward
11 and the same lawyers will ask basically the same questions
12 and obviously get basically the same answers. And we will
13 go through the process again

14 You were selected in the same manner and from the
15 same source as any future jury will be. And there's no
16 reason for me to suppose that the case will ever be
17 submitted to 12 more intelligent, impartial,
18 conscientious, competent jurors than you or that any more
19 or clearer evidence will be produced on one side or the
20 other

21 So I'm going to ask you at this time to return to
22 your room to deliberate with the hope that you can arrive
23 at a unanimous verdict within a reasonable period of time.

24 Now having said that, I respect each and every
25 one of you's opinions I'm going to ask you to give it

ALLEN CHARGE

1 one more good-faith shot because a mistrial, we come back
2 and we do it all over again, just like I said a while
3 ago. Same witnesses, same lawyers, perhaps the same
4 Judge, it may be somebody else but the evidence will be
5 basically the same.

6 And y'all paid extremely close attention, you
7 deliberated hard and I'm going to ask you to give it one
8 more good shot Now I can do a couple of things I can
9 order you some supper if you want to do that or if you
10 want to just see how it goes for another hour or so and
11 then let me know.

12 Let's do this It's five Why don't we go
13 another hour or so and why don't you give me a report in
14 about an hour and see how we're doing. Does anybody need
15 another smoke break? I'm going to break you of smoking.

16 THE JUROR: I wish you would.

17 THE COURT: I wish I could.

18 FOREPERSON OF THE JURY: If you have a phone.

19 THE COURT How many of them need to call home?
20 Where's Mr Whittle? Mr Mert? How many of you need to
21 call home? All right. Couple of things. Let my one man
22 who needs to take a smoke go down and have his
23 cigarettes And I say that, I understand. I got about
24 four or five that need to make a phone call so make them,
25 we got phones in my chambers, wherever.

ALLEN CHARGE

1 THE CLERK: There is one in the law clerk's
2 office

3 THE COURT Just when you call home, don't
4 discuss the case or anything

5 THE JUROR: It will be fine if the bailiff will
6 call to let my wife know that we're going to be a couple
7 of hours more

8 THE COURT I would rather you call your wife.
9 I'd rather her fuss at you than me

10 THE JUROR: No At the bailiff

11 THE COURT She may be like my wife and never
12 fuss. I'm not under oath

13 Any of you need some fresh air? You want to go
14 out and stretch your legs a little bit? Will that help?

15 THE JUROR Yeah

16 THE COURT The smoker and the fresh air
17 stretchers, let's everybody do that phone calls and then
18 we'll come back on in and give it another good shot
19 Thank y'all so much.

20 (Jury exits courtroom at 5:08 p m)

21 THE COURT Any objections from the State in
22 connection with the Allen charge?

23 MR GIBBONS No sir

24 THE COURT From the Defendant?

25 MS STONEY No, Your Honor

1 THE COURT: Okay. Let's stand at ease a little
2 while longer and see how we go

3 (Thereupon a break was taken)

4 THE COURT Thank you. Please be seated Let
5 the record reflect that the Defendant is present. All
6 right

7 The State and the defense has discussed in
8 chambers at about 6 10 I was informed by the jury that
9 they are unable to reach a unanimous verdict. As I told
10 them when we gave the Allen charge, I would ask them to go
11 another hour or hour and a half

12 I think it's been about an hour or hour and a
13 half I forgot exactly the time I thought it was 10
14 minutes till five or quarter to five or so, about an hour
15 and a half. So I'm going to bring them in and put it on
16 the record. Please no outbursts from anyone in the
17 audience and then we'll go from there

18 (Jury enters courtroom at 6.12 p.m.)

19 THE COURT Madam Forelady, I received your note
20 which informed me that you are, or the jury is unable to
21 reach a unanimous decision. Is that correct?

22 FOREPERSON OF THE JURY. That is correct, sir.

23 THE COURT Well, I want to thank all of you for
24 your service. Obviously you paid unbelievable attention
25 and I appreciate you trying to resolve the deadlock and

1 giving it the other shot.

2 I don't think there's any need to come back
3 tomorrow It looks like you're pretty set and I'm going
4 to declare a mistrial which means we will try it again
5 probably right at the first of the year and see what
6 happens then.

7 So having said that, you will be excused now,
8 obviously for the balance of the evening and for the rest
9 of the week as I told you earlier. If you would please
10 excuse -- anybody need a work excuse. Everybody okay. We
11 have two. We have your checks and the work excuse that
12 goes along with it. So if you'll go back to the jury room
13 and pick those up, then you are free to go. Thank you.

14 May I see you in my chambers, please?

15 FOREPERSON OF THE JURY: Yes, sir

16 (Jury exits courtroom at 6:14 p.m.)

17 THE COURT All right. Is there anything from
18 the State before we break for the evening?

19 MR GIBBONS No, sir

20 THE COURT: All right. As I understand that the
21 Defendant will probably have a motion for bond. Everybody
22 is tired, probation officer has got some stuff to say in
23 regards to -- what do we got tomorrow?

24 MS STONEY: Your Honor, one of the pleas in the
25 morning is mine.

1 THE COURT: When would suit you to do the bond?
2 I'm not going to be here at nine o'clock It's going to
3 be ten before I get here tomorrow. We'll stand at ease
4 until ten in the morning. You don't have to be right here
5 at ten.

6 MS. STONEY: Thank you, Your Honor.

7 END OF PROCEEDINGS

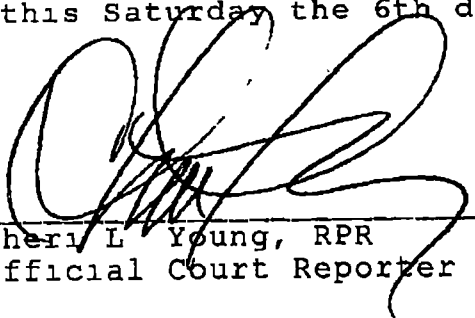
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9 * * * *

10 CERTIFICATE OF REPORTER

11 I, Cheri L. Young, Registered Professional Reporter,
12 and Official Court Reporter for the State of South
13 Carolina; do hereby certify that the foregoing transcript
14 of proceedings heard on December 4, 5 and 6, 2006, in
15 Aiken, South Carolina, was reported by Lisa H. Hicklin
16 using machine shorthand and realtime computer-aided
17 translation, and was reduced into English format by the
18 undersigned, and is a true, accurate and complete
19 transcript of the proceedings had and evidence introduced
20 in the hearing of the matter

21 I do further certify that I am neither of kin, counsel
22 nor interest to any party hereto.

23 I have hereunto set my hand this Saturday the 6th day
24 of December, 2008

25

Cheri L. Young, RPR
Official Court Reporter